

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

## *Minute Action*

AGENDA ITEM: 19

**Date:** July 1, 2009

**Subject:** Approve appraisals and authorize offers for properties necessary for the Hunts Lane and Union Pacific Railroad Company (UPRR) Grade Separation Project

**Recommendation:\*** 1. Approve appraisals of 5 parcels required for the railroad grade separation project (Project) at Hunts Lane and Union Pacific Railroad Company (UPRR) in the Cities of San Bernardino and Colton.

2. Authorize proceeding with the acquisition of 5 parcels for an estimated value of \$1,800,000.

**Background:** As part of the Traffic Congestion Relief Program (TCRP) established by Assembly Bill 2928 of 2000, SANBAG was the designated recipient of \$95 million for the Alameda Corridor East railroad grade separation projects. Hunts Lane at the UPRR tracks is one of the five projects identified for this funding. With the announcement from Governor Schwarzenegger that Proposition 42 funds would not be suspended in Fiscal Year 2005/06, this and other TCRP projects were once again restarted. As the design and environmental work is virtually complete, the next step in delivering this grade separation project is securing the right of way for the projects.

On April 2, 2008, the Board authorized the start of the project right of way appraisal and acquisition phases including utility relocations. On June 3, 2009,

\*

*Approved*  
*Board of Directors*

*Date:* July 1, 2009

*Moved:*

*Second:*

*In Favor:*

*Opposed:*

*Abstained:*

*Witnessed:* \_\_\_\_\_

the Board approved appraisals and authorized proceeding with acquisition of 11 parcels.

The County Real Estate Services Department has completed appraisals of 5 additional parcels of the estimated 29 parcels that will be needed to construct the Hunts Lane project. The 5 parcels are summarized in attachment "A." Pursuant to Civil Code of Procedure Section 1263.25, the property owner is entitled to obtain an independent appraisal for actual reasonable costs up to \$5,000. The total estimated appraisal amount and 25% contingency is \$1,800,000.

Copies of the appraisals will be on file with the Director of Freeway Construction. The Board should be aware that while condemnation actions for these properties is a last resort and SANBAG's agent will go to every extent possible to avoid such actions, there is a potential that these properties may need to be acquired through eminent domain proceedings.

***Financial Impact:*** Item is consistent with current Fiscal Year 2008/2009 budget. TN 870.

***Reviewed By:*** This item was reviewed and unanimously recommended for approval by the Major Projects Committee on June 11, 2009.

***Responsible Staff:*** Garry Cohoe, Director of Freeway Construction

**ATTACHMENT "A"**  
**Hunts Lane/UPRR Grade Separation - Parcels Information**

<b>PARCEL #</b>	<b>A.P.N. #</b>	<b>OWNER</b>	<b>ADDRESS</b>	<b>CITY</b>	<b>TYPE</b>
12	164-321-49	Extra Space Properties Twelve LLC	155 West Center Drive	San Bernardino	Utility & Permanent Roadway Easement
13	164-321-82 164-321-83	Decatur Center Enterprises, LLC	2211 South Hunts Lane 184 West Caroline Street	San Bernardino	Utility & Drainage Easement, Permanent Roadway Easement and TCE
14	164-271-03 164-271-04	Atef & Soheir Hanna Ehab Atalla	2300 Steele Road	Colton	Permanent Roadway Easement and TCE
15	164-311-03 164-311-04	Superior Scale House, Inc.	601 South Hunts Lane 10600 South Hunts Lane	Colton	Utility & Permanent Roadway Easement, TCE, and Maintenance & Emergency Access Rights
16	164-311-42	Galen Eugene Rogers Robert Bernard Kahn	2275 East Cooley Drive	Colton	Utility Easement, TCE and Maintenance Access

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- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
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## *Minute Action*

AGENDA ITEM: 20

**Date:** July 1, 2009

**Subject:** Amendment to Contract with Best, Best & Krieger

**Recommendation:**\* Approve Amendment No. 6 to Contract No. 05-016 with Best, Best & Krieger (BB&K), Attorneys at Law, to provide legal counsel for the Colonies Lawsuit and the Cactus Basin Flood Control Channel lawsuit in the amount of \$600,000 for a total contract amount of \$1,425,000.

**Background:** This is an amendment to an existing contract with the firm Best, Best & Krieger (BB&K) to provide legal services related to a lawsuit involving various public entities relative to the acquisition of right of way for the SR 210 Freeway Project, commonly referred to as the Colonies lawsuit and the Cactus Basin lawsuit.

On August 4, 2004, the Board of Directors authorized the Executive Director to approve Agreement No. 05-016 with the BB&K) to provide legal counsel representation of the Colonies lawsuit for an amount of \$350,000.

On February 1, 2008, SANBAG was served with litigation by the San Bernardino County Flood Control District related to the Cactus Basin Flood Control Channel located within the City of Rialto. To provide consistency between the two separate, but related lawsuits, the Board amended BB&K's contract in April 2008 to include legal counsel representation for the Cactus Basin Flood Control Channel lawsuit.

The contract has been amended five times bringing the existing contract total to \$825,000. Significant effort has gone into defending these lawsuits. Effort has

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*Approved*  
*Board of Directors*

*Date: July 1, 2009*

*Moved:*

*Second:*

*In Favor:*

*Opposed:*

*Abstained:*

*Witnessed:* \_\_\_\_\_

included reviewing the complaints, gathering documents, preparing and filing the demurrers, preparing and filing the cross-complaint, document review and production, and the commencement of discovery.

An amendment of \$600,000 to BB&K's contract is requested. It is impossible to predict, with any certainty, the future expenditures required to defend these two lawsuits. It is dependent on the rulings issued by the courts. It is estimated that the \$600,000 will provide the necessary funding for legal services through the next six months.

The Colonies case is estimated to cost \$450,000 for legal services related to the continuation of discovery, continuation of document review and production, preparation of additional motions, and the commencement of depositions. The Cactus Basin case is estimated to cost \$150,000 for legal services related to continuation of discovery, continuation of document review and production, and preparation of additional motions. This amendment will allow BB&K to continue to defend this case without interruption.

SANBAG's insurance company is covering the legal service costs of Cactus Basin.

- Financial Impact:*** This item is consistent with the SANBAG Fiscal Year 2009/10 budget, TN 8220.
- Reviewed By:*** This item was reviewed and recommended for approval by the Legal Ad Hoc Committee on June 11, 2009.
- Responsible Staff:*** Garry Cohoe, Director of Freeway Construction

## BEST BEST & KRIEGER

### ATTORNEYS AT LAW

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BBKlaw.com

SACRAMENTO  
(916) 325-4000

SAN DIEGO  
(619) 525-1300

WALNUT CREEK  
(925) 977-3300

Steven C. DeBaun  
(951) 828-8201  
Steven.DeBaun@bbklaw.com

June 23, 2009

Mayor Morris  
c/o Garry Cohoe  
San Bernardino Associated Governments  
1170 West Third Street  
2nd Floor  
San Bernardino, CA 92410-1715

Re: Amendment to Legal Services Agreement (SANBAG Contract No. 05016)

Dear Mayor Morris:

As we discussed with the SANBAG ad hoc legal committee, my firm is requesting that our contract be increased to a total of \$1,425,000 for the defense of the Colonies and Cactus Basin suits brought against SANBAG. This total amount includes Amendment No. 4 an increase of \$100,000 approved by the SANBAG Board on September 3, 2008, Amendment No.5 an increase of \$325,000 approved by the Board on January 7, 2009, and proposed Amendment No. 6 an increase of \$600,000 discussed at the June 11, 2009 ad hoc legal committee. All other provisions of the original contract retainer agreement shall remain in full force and effect.

If this letter meets with your approval, please sign and date it, and return the original to us. Thanks for your consideration on this matter. Please call me with any questions.

Sincerely,



Steven C. DeBaun  
of BEST BEST & KRIEGER LLP

AGREED AND ACCEPTED

By: \_\_\_\_\_  
Paul Eaton

Date: \_\_\_\_\_

RVPUB\SDEBAUN\762700.1

**SANBAG Contract No. 05016-06**

by and between

San Bernardino Associated Governments

and

Best, Best & Krieger

for

Legal Services

FOR ACCOUNTING PURPOSES ONLY												
<input checked="" type="checkbox"/> Payable <input type="checkbox"/> Receivable	Vendor Contract # _____ Vendor ID <u>BBK</u>	Retention: <input type="checkbox"/> Yes _____ % <input checked="" type="checkbox"/> No	<input type="checkbox"/> Original <input checked="" type="checkbox"/> Amendment									
Notes: Move previous charges against 8240 to 8220.												
Original Contract:        \$ <u>75,000</u>  Contingency Amount:       \$ <u>0</u>	<table style="width:100%;"> <tr> <td>Previous Amendments Total:</td> <td align="right">\$ <u>750,000</u></td> </tr> <tr> <td>Previous Amendments Contingency Total:</td> <td align="right">\$ <u>0</u></td> </tr> <tr> <td>Current Amendment:</td> <td align="right">\$ <u>600,000</u></td> </tr> <tr> <td>Current Amendment Contingency:</td> <td align="right">\$ <u>0</u></td> </tr> </table>				Previous Amendments Total:	\$ <u>750,000</u>	Previous Amendments Contingency Total:	\$ <u>0</u>	Current Amendment:	\$ <u>600,000</u>	Current Amendment Contingency:	\$ <u>0</u>
Previous Amendments Total:	\$ <u>750,000</u>											
Previous Amendments Contingency Total:	\$ <u>0</u>											
Current Amendment:	\$ <u>600,000</u>											
Current Amendment Contingency:	\$ <u>0</u>											
Contingency Amount requires specific authorization by Task Manager prior to release.												
<b>Contract TOTAL →</b>				<b>\$ <u>1,425,000</u></b>								
↓ Please include funding allocation for the original contract or the amendment.												
<u>Task</u>	<u>Cost Code</u>	<u>Funding Sources</u>	<u>Grant ID</u>	<u>Amounts</u>								
8220	5553	MSI	1300	\$ <u>325,000</u>								
_____	_____	_____	_____	\$ _____								
_____	_____	_____	_____	\$ _____								
_____	_____	_____	_____	\$ _____								
Original Board Approved Contract Date: <u>8/4/04</u> Contract Start: <u>8/4/04</u> Contract End: <u>Open</u> New Amend. Approval (Board) Date: <u>7/1/09</u> Amend. Start: <u>7/1/09</u> Amend. End: <u>Open</u>												
<b>If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:</b>												
<b>Approved Budget Authority →</b>	Fiscal Year: <u>08/09</u> \$ <u>600,000</u>		<b>Future Fiscal Year(s) – Unbudgeted Obligation →</b>	\$ _____								
Is this consistent with the adopted budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, which Task includes budget authority? <u>8220</u> If no, has the budget amendment been submitted? <input type="checkbox"/> Yes <input type="checkbox"/> No												
CONTRACT MANAGEMENT												
<b>Please mark an "X" next to all that apply:</b>												
<input type="checkbox"/> Intergovernmental <input checked="" type="checkbox"/> Private <input type="checkbox"/> Non-Local <input type="checkbox"/> Local <input type="checkbox"/> Partly Local												
Disadvantaged Business Enterprise: <input type="checkbox"/> No <input type="checkbox"/> Yes _____ %												
Task Manager: <u>Garry Cohoe</u>			Contract Manager: <u>Garry Cohoe</u>									

Task Manager Signature

Date

Contract Manager Signature

Date

Chief Financial Officer Signature

Date

Filename: A05016-06

Form 28 06/06

## *Minute Action*

AGENDA ITEM: 21

**Date:** July 1, 2009

**Subject:** Loan to Mountain Area Transit Agency

**Recommendation:\***

1. Authorize a loan in the amount of \$506,733.00 from the Local Transportation Fund (LTF); and
2. Approve Agreement C10002 for the loan to Mountain Area Regional Transit Agency for the purchase of four 29', 24 passenger, wheelchair accessible buses.

**Background:** The Mountain Area Regional Transit Agency (MARTA) will be receiving four replacement vehicles during the month of June to provide services to both the general public and disabled populations in the Mountain area. The four buses are funded through both Congestion Mitigation/Air Quality (CMAQ) and carryover State Transit Assistance Fund (STAF) revenues. The CMAQ funding is a reimbursement fund; once the vehicles are delivered and paid for, MARTA will request reimbursement through the California Department of Transportation (Caltrans) which takes approximately six weeks for the process to be complete.

The total dollar amount of the purchase price is \$506,733 which will be covered by CMAQ. Due to the large purchase amount and the shortage of available funds, MARTA is requesting a loan in the amount of \$506,733, which will cover the CMAQ dollar amount until the reimbursement is made available through the state.

*Approved*  
*Board of Directors*

*Date:* \_\_\_\_\_

*Moved:*

*Second:*

*In Favor:*

*Opposed:*

*Abstained:*

*Witnessed:* \_\_\_\_\_



The loan will be from the Local Transportation Fund unrestricted balance. The loan will be paid by September 2009. In addition to the repayment of the principal, MARTA will pay the interest rate earned by the County Treasury Pooled Investments for the period of the loan.

***Financial Impact:*** This item will have no impact on the SANBAG budget as interest will be paid at the same rate the funds would otherwise earn in the County Investment Pool.

***Reviewed By:*** This item was reviewed by the Mountain/Desert Committee on June 19, 2009 and unanimously recommended for approval.

***Responsible Staff:*** Mike Bair, Interim Director of Transit and Rail  
Beth Kranda, Transit Analyst

**SANBAG Contract No. C10002**

by and between

San Bernardino Associated Governments

and

Mountain Area Regional Transit Authority

for

Loan of Local Transportation Funds for the purchase of 4 replacement vehicles**FOR ACCOUNTING PURPOSES ONLY**

<input checked="" type="checkbox"/> Payable	Vendor Contract # _____	Retention: _____	<input checked="" type="checkbox"/> Original
<input checked="" type="checkbox"/> Receivable	Vendor ID <u>MARTA</u>	<input type="checkbox"/> Yes _____ % <input checked="" type="checkbox"/> No	<input type="checkbox"/> Amendment

Notes:

Original Contract: \$ 506,733

Previous Amendments Total: \$ \_\_\_\_\_

Previous Amendments Contingency Total: \$ \_\_\_\_\_

Contingency Amount: \$ \_\_\_\_\_

Current Amendment: \$ \_\_\_\_\_

Current Amendment Contingency: \$ \_\_\_\_\_

Contingency Amount requires specific authorization by Task Manager prior to release.

**Contract TOTAL → \$ 506,733**

↓ Please include funding allocation for the original contract or the amendment.

Task	Cost Code	Funding Sources	Grant ID	Amounts
50610000	_____	LTF	1045	\$ <u>506,733</u>
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____

Original Board Approved Contract Date: 7/1/09Contract Start: 7/1/09Contract End: 9/30/09

New Amend. Approval (Board) Date: \_\_\_\_\_

Amend. Start: \_\_\_\_\_

Amend. End: \_\_\_\_\_

**If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:****Approved Budget Authority →**Fiscal Year: 09/10\$ 506,733**Future Fiscal Year(s) –  
Unbudgeted Obligation →**

\$ \_\_\_\_\_

Is this consistent with the adopted budget? ☒ Yes ☐ NoIf yes, which Task includes budget authority? 50610000If no, has the budget amendment been submitted? ☐ Yes ☐ No**CONTRACT MANAGEMENT****Please mark an "X" next to all that apply:**☒ Intergovernmental ☐ Private ☐ Non-Local ☐ Local ☐ Partly LocalDisadvantaged Business Enterprise: ☒ No ☐ Yes \_\_\_\_\_ %Task Manager: **Mike Blair**Contract Manager: **Beth Kranda**

Task Manager Signature

Date

Contract Manager Signature

Date

Chief Financial Officer Signature

Date

Filename:

## **AGREEMENT NO. C10002**

### **SAN BERNARDINO ASSOCIATED GOVERNMENTS**

**and**

### **MOUNTAIN AREA REGIONAL TRANSIT AUTHORITY**

THIS AGREEMENT ("Agreement") is entered into as of July 1, 2009, by and between the San Bernardino Associated Governments, a California joint powers authority ("SANBAG") and the Mountain Area Regional Transit Authority, a California regional transit authority ("MARTA").

#### **RECITALS**

A. MARTA has requested a loan from SANBAG in the amount of \$506,733 for the purpose of financing the acquisition of four replacement vehicles necessary for its operations.

B. SANBAG, acting as the transportation planning agency responsible for administering the Local Transportation Funds ("LTF"), has determined there are sufficient revenues in the LTF to provide a loan under the terms and conditions set forth in this Agreement.

C. SANBAG and MARTA desire to provide for the loan to MARTA, on the terms set forth in this Agreement for the purpose of financing the acquisition of four replacement vehicles necessary for MARTA's operations.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

#### **1. Loan Agreement.**

- (a) Subject to the conditions set forth herein, SANBAG agrees to extend a loan ("Loan") to MARTA in the amount of FIVE HUNDRED SIX THOUSAND SEVEN HUNDRED THIRTY-THREE AND 00/100 DOLLARS (\$506,733.00) (the "Loan Amount"). The Loan shall be further evidenced by a Promissory Note, the form of which is attached hereto as Exhibit A.
- (b) SANBAG agrees to disburse to MARTA an amount equal to the Loan Amount within fifteen (15) days after the approval, execution and delivery of this Agreement by both parties hereto and execution and delivery of the Promissory Note by MARTA.

- (c) The principal sum of the Loan outstanding from time to time hereunder shall bear interest at the rate of interest earned by the County of San Bernardino Treasury pooled investments, calculated quarterly.
- (d) The term of the Loan shall be for a period of ninety-two (92) days from the date of this Agreement, at which time the Loan shall become due and payable in full together with accrued interest to the repayment date.
- (e) MARTA promises to pay to SANBAG, without deduction or offset, the Loan Amount and the interest accrued thereon as provided herein. The repayment of the Loan Amount and interest accrued thereon shall be repaid by MARTA to SANBAG from (i) reimbursements paid to MARTA by the California Department of Transportation (Caltrans) from Federal Transit Administration Congestion Mitigation/Air Quality funds, and (ii) the gross revenues and gross receipts of MARTA, including those generated from the operation of its system and all other revenues and receipts that are legally available, provided, however, to the extent that the gross revenues and gross receipts of MARTA are used to repay the Loan, the obligation of MARTA to repay SANBAG is hereby subordinated to all bonds secured in whole or in part by the gross revenues of MARTA and which are issued and outstanding as of the date first written above.
- (f) The Loan may be prepaid, in whole or in part, at any time upon the payment of the principal amount thereof and any interest accrued to the date of such prepayment.
- (g) Each payment under the Loan shall be credited in the following order: (i) costs, fees, charges, and advances paid or incurred by SANBAG in collecting the Loan or enforcing the Agreement, in such order as SANBAG, in its sole and absolute discretion, elects, (ii) interest payable under this Agreement, and (iii) principal under the Loan.

## 2. Use of Proceeds.

All proceeds of the Loan shall be used by MARTA for the sole purpose of paying for four (4) replacement vehicles.

## 3. Defaults and Remedies.

- (a) Failure or delay by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. The injured party shall give written notice of default to the defaulting party and no action may be instituted against the defaulting party until (30) days after giving such notice. Failure or delay in giving such notice shall not constitute a waiver of default.
- (b) Upon receipt of written notice of default, the defaulting party must immediately commence to cure, correct or remedy such default and shall complete such cure, correction or remedy with reasonable diligence. If the defaulting party fails to

commence to cure, correct or remedy the default within thirty (30) days of receipt of the written notice of default, the injured party may exercise any rights at law or in equity to remedy the default.

4. General Provisions.

- (a) Any title of the parts, section or subsections of this Agreement is intended for convenience of reference only and shall be disregarded in construing or interpreting any part of its provisions.
- (b) The laws of the State of California shall govern the interpretation of this Agreement.
- (c) All notices required to be given to any of the parties hereunder shall be in writing and shall be deemed to have been sufficiently given for all purposes when presented personally to such party or sent by certified or registered mail, return receipt requested, to such party at its address set forth below:

MARTA:

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SANBAG: San Bernardino Associated Governments  
1170 West Third Street, Second Floor  
San Bernardino, California 92410-1715  
Attention: Executive Director

Such notice shall be deemed to be given when received if delivered personally or two (2) days after the date mailed if sent by certified or registered mail. Any notice of any change in such address shall also be given in the manner set forth above. Whenever the giving of notice is required, the giving of such notice may be waived in writing by the party entitled to receive such notice.

- (d) If any provision of this Agreement is determined to be unenforceable for any reason, all other provisions shall be deemed valid and enforceable to the greatest extent possible.
- (e) This Agreement may be amended by the parties at any time.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officials, thereunto duly authorized.

**SAN BERNARDINO ASSOCIATED  
GOVERNMENTS**

\_\_\_\_\_  
Paul M. Eaton  
President

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Jean-Rene Basle  
SANBAG Counsel

**MOUNTAIN AREA REGIONAL  
TRANSIT AUTHORITY**

\_\_\_\_\_  
David Leach  
Chair

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Fiona Luke  
MARTA Counsel

## EXHIBIT A

### SAN BERNARDINO ASSOCIATED GOVERNMENTS

BORROWER – NO. C10002

### PROMISSORY NOTE

\$506,733

San Bernardino, CA

July 1, 2009

FOR VALUE RECEIVED, the Mountain Area Regional Transit Agency, a California [transit agency] organized and existing under the laws of the State of California (the "State") with an office at \_\_\_\_\_, California ("MARTA"), promises to pay to the order of the SAN BERNARDINO ASSOCIATED GOVERNMENTS, a California joint powers authority organized and existing under the laws of the State of California with an office at 1170 West Third Street, Second Floor, San Bernardino, California 92410-1715 ("Payee"), at such office of Payee, or at such other office of Payee or such other place as Payee may designate from time to time in writing, the principal sum of FIVE HUNDRED SIX THOUSAND SEVEN HUNDRED THIRTY-THREE AND 00/100 Dollars (\$506,733.00) in lawful money of the United States of America, together with interest thereon from the date of this Promissory Note (the "Note") hereof at the rates hereinafter provided, and both payable as hereinafter provided.

1. Interest Rate. The principal sum outstanding from time to time hereunder shall bear interest at the rate of interest earned by the County of San Bernardino Treasury pooled investments, calculated quarterly.

2. Payments of Principal and Interest. On September 30, 2009 the unpaid principal sum then outstanding and all accrued and unpaid interest shall become due and payable in full.

3. Security. This Note, and the due performance by MARTA of all of its obligations hereunder, is secured by, inter alia, (i) MARTA's full faith and credit, (ii) all reimbursements paid to MARTA by the California Department of Transportation (Caltrans) from Federal Transit Administration Congestion Mitigation/Air Quality funds, and (iii) a pledge of all of the gross revenues and gross receipts of the MARTA, including those generated from the operation of its system and all other revenues and receipts that are legally available, provided, however, to the extent that the gross revenues and gross receipts of MARTA are used to repay amounts due hereunder, the obligation of MARTA to repay SANBAG is hereby subordinated to all bonds secured in whole or in part by the gross revenues of MARTA and which are issued and outstanding as of the date first written above. Reference is hereby made to the Agreement of even date herewith by and between MARTA and Payee (the "Loan Agreement") for a full

description of the security and the collateral pledged pursuant thereto, the terms upon which this Note is secured. Any collateral securing any of MARTA's obligations under the Loan Agreement is hereinafter referred to as "Collateral."

4. Events of Default. In addition to any other event referred to herein, the occurrence of which, by the terms hereof, constitutes an Event of Default hereunder, the occurrence of any one or more of the following events shall constitute an Event of Default hereunder:

(a) MARTA shall fail to make any payment of principal and/or interest due to Payee under this Note or under the Loan Agreement when the same shall become due and payable, whether at maturity or by acceleration or otherwise; and/or

(b) MARTA shall fail to observe and perform any of the covenants or agreements on its part to be observed or performed under this Note or under the Loan Agreement within thirty (30) days after notice from Payee of such noncompliance; and/or

(c) Any representation or warranty of MARTA under this Note or under the Loan Agreement shall be untrue in any material respect when made.

5. Remedies. Upon the occurrence of any Event of Default, then the entire unpaid principal sum hereunder plus all interest accrued thereon plus all other sums due and payable to Payee under the Loan Agreement shall, at the option of Payee, become due and payable immediately without presentment, demand, notice of nonpayment, protest, notice of protest or other notice of dishonor, all of which are hereby expressly waived by MARTA.

In addition to the foregoing, upon the occurrence of any event of default Payee may forthwith exercise singularly, concurrently, successively or otherwise any and all rights and remedies available to Payee under the Loan Agreement or with respect to any Collateral, or available to Payee by law, equity, statute or otherwise.

6. Remedies Cumulative, etc.

(a) No right or remedy conferred upon or reserved to Payee under the Loan Agreement, or with respect to any Collateral, or now or hereafter existing at law or in equity or by statute or other legislative enactment, is intended to be exclusive of any other right or remedy, and each and every such right or remedy shall be cumulative and concurrent, and shall be in addition to every other such right or remedy, and may be pursued singularly, concurrently, successively or otherwise, at the sole discretion of Payee, and shall not be exhausted by any one exercise thereof but may be exercised as often as occasion therefor shall occur. No act of Payee shall be deemed or construed as an election to proceed under any one such right or remedy to the exclusion of any other such right or remedy; furthermore, each such right or remedy of Payee shall be separate, distinct and cumulative and none shall be given effect to the exclusion of any other. The failure to exercise or delay in exercising any such right or remedy, or the failure to insist upon strict performance of any term of the Loan Agreement, shall not be construed as a



waiver or release of the same, or of any Event of Default thereunder, or of any obligation or liability of MARTA thereunder.

(b) The recovery of any judgment by Payee and/or the levy of execution under any judgment upon any Collateral shall not affect in any manner or to any extent the pledge of the Borrower's revenues, or any security interest under the Loan Agreement in such Collateral, or any rights, remedies or powers of Payee under any the Loan Agreement or with respect to any Collateral, but such pledge and such security interest, and such rights, remedies and power of Payee shall continue unimpaired as before. Further, the exercise by Payee of its rights and remedies and the entry of any judgment by Payee shall not affect in any way the interest rate payable hereunder or under the Loan Agreement of any amounts due to Payee but interest shall continue to accrue on such amounts at the rate specified herein or in such Loan Document.

(c) MARTA hereby waives presentment, demand, notice of nonpayment, protest, notice of protest or other notice of dishonor, and any and all other notices in connection with any default in the payment of, or any enforcement of the payment of, all amounts due under the Loan Agreement. To the extent permitted by law, MARTA waives the right to any stay of execution and the benefit of all exemption laws now or hereafter in effect. MARTA further waives and releases all errors, defects and imperfections in any proceedings instituted by Payee under the terms of the Loan Agreement or with respect to any Collateral.

(d) MARTA agrees that Payee may release, compromise, forebear with respect to, waive, suspend, extend or renew any of the terms of the Loan Agreement (and MARTA hereby waives any notice of any of the foregoing), and that the Loan Agreement may be amended, supplemented or modified by Payee and the other signatory parties and that Payee may resort to any Collateral in such order and manner as it may think fit, or accept the assignment, substitution, exchange or pledge of any other Collateral in place of, or release for such consideration, or none, as it may require, all or any portion of any Collateral, without in any way affecting the validity of any lien over or other security interest in the remainder of any such Collateral (or the priority thereof or the position of any subordinate holder of any security interest with respect thereto); and any action taken by Payee pursuant to the foregoing shall in no way be construed as a waiver or release of any right or remedy of Payee, or of any Event of Default, or of any liability or obligation of MARTA, under the Loan Agreement.

7. Costs and Expenses. Following the occurrence of any Event of Default, MARTA shall pay upon demand all costs and expenses (including all amounts paid to attorneys, accountants, real estate brokers and other advisors employed by Payee and/or to any contractors for labor and materials), incurred by Payee in the exercise of any of its rights, remedies or powers under the Loan Agreement or with respect to any Collateral with respect to such Event of Default, and any amount thereof not paid on the first business day following demand therefor shall be added to the principal sum hereunder and shall bear interest at the rate of interest earned by the County of San Bernardino Treasury pooled investments, calculated quarterly, for the remainder of the loan term from the date of such demand until paid in full, and shall be secured by the lien on revenues and all other collateral. In connection with and as part of the foregoing, in the event that the Loan Agreement is placed in the hands of an attorney for the collection of any sum payable thereunder, MARTA agrees to pay reasonable attorneys' fees for the collection

of the amount being claimed under such Loan Agreement, as well as all costs, disbursements and allowances provided by law, the payment of which sums shall be secured by the lien on the gross revenues and gross receipts of MARTA and all other Collateral.

8. Severability. In the event that for any reason one or more of the provisions of this Note or their application to any person or circumstance shall be held to be invalid, illegal or unenforceable in any respect or to any extent, such provisions shall nevertheless remain valid, legal and enforceable in all such other respects and to such extent as may be permissible. In addition, any such invalidity, illegality or unenforceability shall not affect any other provisions of this Note, but this Note shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

9. Successors and Assigns. This Note inures to the benefit of Payee and binds MARTA, and their respective successors and assigns, and the words "Payee" and "MARTA" whenever occurring herein shall be deemed and construed to include such respective successors and assigns.

10. Notices. All notices required to be given to any of the parties hereunder shall be in writing and shall be deemed to have been sufficiently given for all purposes when presented personally to such party or sent by certified or registered mail, return receipt requested, to such party at its address set forth below:

MARTA:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Payee:

San Bernardino Associated Governments  
1170 West Third Street, Second Floor  
San Bernardino, California 92410-1715  
Attention: Executive Director

Such notice shall be deemed to be given when received if delivered personally or two (2) days after the date mailed if sent by certified or registered mail. Any notice of any change in such address shall also be given in the manner set forth above. Whenever the giving of notice is required, the giving of such notice may be waived in writing by the party entitled to receive such notice.

11. Incorporation by Reference. All of the terms and provisions of the Loan Documents, to the extent not inconsistent herewith, are hereby incorporated herein by reference.

12. Governing Law. This Note shall be governed by and construed in accordance with the laws of the State.

///

///

IN WITNESS WHEREOF, MARTA has executed this Promissory Note the day and year first above written.

ATTEST:

MOUNTAIN AREA REGIONAL  
TRANSIT AUTHORITY

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
David Leach, Chair

- 
- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
- 

*Minute Action*

AGENDA ITEM: 22

**Date:** July 1, 2009

**Subject:** Allocation of Local Transportation Funds (LTF) and State Transit Assistance Funds (STA) for Fiscal Year 2009/2010

**Recommendation:\*** Adopt Resolution 10-001 authorizing the allocation of Local Transportation Funds (LTF) and State Transit Assistance Funds (STA) for Fiscal Year 2009/2010.

**Background:** Section 99214 of the California Public Utilities Code designates the San Bernardino County Transportation Commission as the regional transportation planning agency for the purpose of administering the Transportation Development Act funds (LTF and STA). This responsibility includes the adoption of the LTF apportionments, approval of all LTF and STA claims, issuance of LTF and STA allocation and disbursement instructions.

Section 6659 and Section 6753 of the California Code of Regulations (CCR) requires the adoption of a resolution authorizing the issuance of LTF and STA allocation instructions, respectively.

The attached Resolution 10-001 fulfills the requirement of CCT Section 6659 and Section 6753.

---

*Approved*  
*Board of Directors*

*Date:* \_\_\_\_\_

*Moved:*

*Second:*

*In Favor:*

*Opposed:*

*Abstained:*

*Witnessed:* \_\_\_\_\_

BRD0907a-vlb  
50210000  
Attachment:  
RES10001-vlb

**Financial Impact:** This item is consistent with the adopted Fiscal Year 2009/2010 SANBAG Budget. Adoption of the resolution by the Board will authorize the issuance of LTF and STA allocation instructions for the commission's TDA administration functions, transportation planning and programming functions and commuter rail operating and capital assistance as approved in the Fiscal Year 2009/2010 Budget.

**Reviewed By:** This item was reviewed by the Administrative Committee on June 10, 2009 and unanimously recommended for approval.

**Responsible Staff:** Michael Bair, Interim Director of Transit and Rail Programs  
Victoria Baker, Senior Transit Analyst

**RESOLUTION NO. 10-001**

**RESOLUTION OF THE  
SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION  
AUTHORIZING THE ALLOCATION OF  
LOCAL TRANSPORTATION FUNDS AND  
STATE TRANSIT ASSISTANCE FUNDS  
FOR FISCAL YEAR 2009/2010**

WHEREAS, the San Bernardino County Transportation Commission is the designated transportation planning agency for the administration of the Transportation Development Act funds within San Bernardino County; and

WHEREAS, the Southern California Association of Governments (SCAG) Executive Committee has adopted a Regional Transportation Plan (RTP) directed toward the achievement of a coordinated and balanced transportation system; and

WHEREAS, the Board of Directors has adopted a Subregional Transportation Improvement Program including planned expenditures of transportation funds, including Local Transportation Funds and State Transit Assistance Funds; and

WHEREAS, claims may be submitted under the Transportation Development Act for allocations from the Local Transportation Fund and State Transit Assistance Funds consistent with the adopted plans, programs and apportionments;

NOW THEREFORE BE IT RESOLVED that the Board of Directors of the San Bernardino County Transportation Commission hereby approves the allocation of Local Transportation Funds and State Transit Assistance Funds for Fiscal Year 2009/2010 subject to those claims conforming to adopted apportionments and all other requirements of the Transportation Development Act, including but not limited to the following findings:

1. The claimant's proposed expenditures are in conformity with the Regional Transportation Plan.
2. The level of passenger fares and charges is sufficient to enable the operator or transit service claimant to meet the applicable fare revenue to operating expense (operating ratio) requirements.
3. The claimant is making full use of federal funds available pursuant to the Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU).
4. The sum of the claimant's allocations from the State Transit Assistance Funds and Local Transportation Fund does not exceed the amount the claimant is eligible to receive during the fiscal year.

5. Priority consideration has been given to claims to offset reductions in federal operating assistance and the unanticipated increase in the cost of fuel, to enhance existing public transportation services, and to meet high priority regional, countywide, or area wide public transportation needs.
6. The claimant has made reasonable effort to implement the productivity improvements recommended pursuant to Public Utilities Code 99244, including the specific reference to the improvements recommended and the efforts made by the claimant to implement them.
7. The claimant submits a certification issued by the Department of California Highway Patrol within the last 13 months verifying that the claimant is in compliance with Section 1808.1 of the Vehicle Code (Drivers Pull Notice Program), as required by Public Utilities Code 99251.
8. The claimant is in compliance with the qualifying criteria pursuant to Public Utilities Code Section 99314.6 (use of STA for operating purposes).
9. The transportation services contracted for under Public Utilities Code 99400(c) are responding to a transportation need not otherwise being met within the community or jurisdiction of the claimant and that where appropriate, the services are coordinated with the existing transportation service.

BE IT FURTHER RESOLVED that such approval does not include allocations for local street and roads unless the provisions of Sections 99401.5 and 99401.6 of the Public Utilities Code have been met; and

BE IT FURTHER RESOLVED that the Executive Director or her designee is authorized to transmit allocation instructions to the San Bernardino County Auditor/Controller, having first determined that the required allocation meets all requirements of this Resolution and the Transportation Development Act.

Approved by the Board of Directors of the San Bernardino County Transportation Commission at its regular meeting thereof held this 1<sup>st</sup> day of July 2009.\*

*Approved*  
*Board of Directors*

*Date:* \_\_\_\_\_

*Moved:* \_\_\_\_\_ *Second:* \_\_\_\_\_

*In Favor:* \_\_\_\_\_ *Opposed:* \_\_\_\_\_ *Abstained:* \_\_\_\_\_

*Witnessed:* \_\_\_\_\_

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

*Minute Action*

AGENDA ITEM: 23

**Date:** July 1, 2009

**Subject:** Triennial Performance Audit of the San Bernardino Associated Governments for Fiscal Years 2005/2006 through 2007/2008

**Recommendation:\*** Receive the Triennial Performance Audit of the San Bernardino Associated Governments for Fiscal Years 2005/2006 through 2007/2008 and direct staff to implement the audit recommendations.

**Background:** California Public Utilities Code, Section 99246(a) requires that a performance audit of SANBAG, acting as the county transportation commission, be conducted every three years. The last commission performance audit was completed and received by the Board in January 2007. The current performance audit was conducted by Pacific Municipal Consultants (PMC). Mr. Derek Wong of PMC made a presentation to the Administrative Committee of the report findings and recommendations.

The attached performance audit focuses primarily on the commission's responsibilities relating to the administration of the Transportation Development Act (TDA) funds (Local Transportation Funds and State Transit Assistance Funds). The report contains an Executive Summary followed by sections describing the variety of functions SANBAG performs, the organizational structure of SANBAG, its participation with regional agencies; and, more importantly, its compliance with the State TDA requirements.

*Approved*  
*Board of Directors*

*Date:* \_\_\_\_\_

*Moved:*

*Second:*

*In Favor:*

*Opposed:*

*Abstained:*

*Witnessed:* \_\_\_\_\_

BRD0907b-vlb  
50210000  
Attachment  
BRD0907b1-vlb



The audit contains six recommendations, 1) Enhancement of the Transit Productivity Improvement Program (PIP), 2) Ensure transit operators are consistently submitting CHP inspections certificates with TDA Transit Claims, 3) Maintain transit staff development for TDA administration, 4) Update the SANBAG TDA application manual, 5) Develop orientation packet for new and existing Public and Specialized Transit Advisory and Coordination Council (PASTACC) members, and 6) Consider development of a broader transit policy committee.

***Financial Impact:*** This item is consistent with the adopted budget. The performance audit is funded by LTF Administrative funds under Task 50209000.

***Reviewed By:*** This item was reviewed by the Administrative Committee on June 10, 2009 and unanimously recommended for approval.

***Responsible Staff:*** Michael Bair, Interim Director of Transit and Rail Programs  
Victoria Baker, Senior Transit Analyst

**FY 2006-2008  
Triennial Performance Audit  
of San Bernardino Associated  
Governments**

**Submitted to San Bernardino  
Associated Governments**

May 2009



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Note: This document was prepared specifically for the Triennial Performance Audit of the San Bernardino Associated Governments, Omnitrans, Victor Valley Transit Authority, Morongo Basin Transit Authority, and Mountain Area Regional Transit Authority and the cities of Barstow and Needles transit systems. Any reuse or modification without the written authorization of PMC will be at the user's sole risk.

## Executive Summary

PMC, in association with Booz Allen Hamilton, was retained by the San Bernardino Associated Governments (SANBAG) to conduct its Transportation Development Act (TDA) performance audit for Fiscal Years (FY) 2005–06 through 2007–08. As a Regional Transportation Planning Agency (RTPA), SANBAG is required by Public Utilities Code (PUC) Sections 99246 and 99248 to prepare and submit an audit of its performance on a triennial basis to the California State Department of Transportation (Caltrans) to continue receiving TDA funding. TDA funding is used for SANBAG administration and planning, and distributed to local jurisdictions for motorized and non-motorized forms of transportation.

This performance audit is intended to describe how well SANBAG is meeting its administrative and planning obligations under TDA, as well as its organizational management and efficiency. The *Performance Audit Guidebook for Transit Operators and Regional Transportation Planning Entities, September 2008 (third edition)* published by the California Department of Transportation was used to guide in the development and conduct of the audit. To gather information for the TDA performance audit, PMC conducted interviews, reviewed various documents, and evaluated SANBAG's responsibilities, functions, and performance of the TDA guidelines and regulations. Interviews were conducted with agency staff, the transit operators within SANBAG's jurisdiction, and stakeholders that serve on the SANBAG Public and Specialized Transportation Advisory and Coordination Council (PASTACC).

The audit comprises several sections, including compliance with TDA requirements, status of implementing prior audit recommendations, and review of functional areas. Findings from each section are summarized below, followed by recommendations based on our audit procedures.

### Compliance with TDA Requirements

SANBAG has satisfactorily complied with most State legislative mandates for Regional Transportation Planning Agencies. One compliance measure was not applicable. A few compliance areas were partially met, including the mandate for SANBAG to analyze and recommend potential productivity improvements for the transit operators, as well as to ensure the fiscal and compliance audits were submitted to the State according to the statutory timelines. A few of the FY 2007-08 TDA fiscal audits of the transit operators were not submitted to the State on time due to a change in reporting format.

To its credit, SANBAG has conducted extensive outreach during the annual unmet transit needs process by holding at least three public hearings in various locations throughout the Mountain/Desert Region to take public testimony and by accepting written and Internet correspondence. The public hearings are held where public transit services are provided

in each subregion. TDA statute requires at least one public hearing whereas SANBAG sponsors three.

### **Status of Prior Audit Recommendations**

There were two recommendations in the prior performance audit. One recommendation was implemented which included developing a succession plan in the management of the TDA program. However, the second prior recommendation relating to updating the SANBAG TDA Fund Application Manual was not implemented, as SANBAG staff has not had the opportunity to update the 2002 manual to reflect both statutory and administrative changes. This recommendation is carried forward for full compliance.

### **Functional Review**

1. SANBAG conducts its management of the TDA program in a competent, professional manner while operating in a complex intergovernmental environment.
2. SANBAG has satisfactorily complied with most State legislative mandates for Regional Transportation Planning Agencies. A few compliance areas were partially met, including the mandate for SANBAG to analyze and recommend potential productivity improvements for the transit operators, as well as to ensure the fiscal and compliance audits were submitted to the State according to the statutory timelines.
3. SANBAG has responded to and implemented one of the two prior performance audit recommendations. The recommendation not yet implemented is to update its TDA application manual.
4. SANBAG has seen notable changes and challenges in staffing during the audit period, particularly at the senior management and executive leadership level. Staff changes included the recruitment of two Executive Directors in the past three years, a Director of Management Services and Mountain/Desert Subregional Policies and a new Director of Freeway Construction, and recruitment of four Chief Financial Officers.
5. In light of the extension of Measure I for another 30 years and the limited capacity of Caltrans and partner agencies to deliver projects, SANBAG has been organizing itself through creation of new positions and new internal controls toward serving as an implementation agency. A new strategic plan for Measure I has also been developed to guide future transportation infrastructure.
6. The agency was recognized in May 2007 as the International Employer of the Year by Women's Transportation Seminar (WTS) at an awards dinner in San Diego.
7. SANBAG is updating its financial software, having outgrown its current system and recently installing and testing a new system. Tyler Technologies, Inc. is supplying SANBAG with the EDEN financial management software, including core financial

and human resource applications. In conjunction with the financial system overhaul, SANBAG is documenting current desk procedures and policies as a means to communicate the standard operating procedures in light of management turnover.

8. During the audit period, SANBAG commissioned an operations analysis for each of the transit operators. Each Short Range Transit Plan provided recommendations for alternative service provision and benchmark performance measures to gauge productivity. Many of the recommendations have been implemented by the respective operators. However, LTF receipts and reserves have been trending lower due to the economic downturn resulting in required efforts by each transit agency to assess current service provision.
9. The apportioned amount of LTF funds used for SANBAG planning purposes has increased over the last three years. The increase was generally due to continued work in meeting TDA administrative requirements and planning for existing and new projects. SANBAG's statutory limit of LTF expenditures for planning and programming purposes is 3 percent of annual Local Transportation Fund revenues. SANBAG has been responsible in the amount it claims.
10. With the addition of a Transit Analyst in August 2006, SANBAG has had the staff capability to be more hands-on and engaged with the transit operators. Direct interface with the operators has been enhanced through communications, attendance at unmet transit needs hearings and PASTACC meetings, as well as review of operating performance through each operator's respective Short Range Transit Plan. By having additional transit staff focus on transit operations, the Director of Transit and Rail Programs is able to focus more on policy and to respond faster to funding and high-level decision-making for both commuter rail and public transit.
11. SANBAG, in cooperation with the transit operators, went live with TransTrack during the audit period. TransTrack is a computerized data collection and performance management tool geared toward transit operators. It is intended to standardize the reporting of critical operations data and provide a communications medium between SANBAG, the operators and their governing boards. After a few years of becoming familiar with this tool, several of the transit operators continue to experience challenges utilizing the capabilities of TransTrack. As a result, there are ongoing efforts by both SANBAG and the operators to improve the data consistency and utilization of this system to its potential.

## Recommendations

Performance Audit Recommendation	Background	Timeline
#1 Enhance the Transit Productivity Improvement Program (PIP).	The transit PIP, which comprises three components, could be strengthened in several areas. One area is for SANBAG to ensure that the transit operators submit their specific initiated efforts to improve productivity along with their TDA claims, as this is a standard assurance item. A second area is for development of a brief form or table for the operators to describe their status and actions to implement the performance audit recommendations. The form, which could be attached as part of the annual TDA claim, would include a request to list each recommendation, activities conducted to implement the recommendation, and the status of whether the recommendation was fully implemented or not, and follow-up actions to be taken. The third area is ongoing work with the operators to improve their usage of TransTrack, whether through additional instruction or training, identifying and communicating data errors, or validating the method to enter the data consistently.	High Priority
#2 Require transit operators to consistently submit CHP inspection certificates with TDA claims.	The standard assurances form completed by the TDA claimants includes submittal of the annual CHP certificate verifying participation in the pull notice program. Submittal of these forms by the operators to SANBAG is a compliance requirement. As a few operators had past unsatisfactory CHP ratings for a variety of violations, SANBAG should be aware of these findings and follow up with the operator to maintain compliance.	High Priority
#3 Maintain transit staff development for TDA administration.	Given the retirement of the Director of Transit and Rail Programs, SANBAG should ensure that adequate training on TDA administration and compliance continues through the ranks. Desk procedures should be in place that enable senior staff and management to provide training to analysts and others regarding the responsibilities and compliance with TDA to maintain a high level of competency within the agency. This may include cross-sharing of responsibilities so that more than one person is capable of handling the tasks.	High Priority



Performance Audit Recommendation	Background	Timeline
#4 Update the SANBAG TDA application manual.	As a carryover recommendation from the prior performance audit, the agency's guidebook should be updated to reflect changes to the administration of TDA. These include the updated TDA statute book (February 2009), the updated TDA performance audit guidelines (September 2008), utilization of TransTrack as a performance monitoring tool, and utilization of the newly designed TDA claim form.	High Priority
#5 Develop orientation packet for new and existing PASTACC members.	Given the diversity, interest and membership size of this advisory body, a brief standard orientation packet could assist new and existing members to become more familiar with the purpose, role and responsibilities of the group. Answers to common questions posed by members could be included in addition to other general information such as transit funding sources, list of acronyms, unmet needs process and other pertinent data. The packet may also serve as a reference document for the group to consult when exchanging ideas and discussion.	Medium Priority
#6 Consider development of a broader transit policy committee in light of multimodal planning in the county and region.	SANBAG is engaged in several transit connectivity plans as well as a Long Range Transit Plan that will have broad implications on future travel and commuter behavior. These plans will likely have connectivity with rail and other transit and non-motorized systems as part of the effort to improve mobility while complying with state legislation including SB 375. Specialized transit for elderly and disabled passengers is another program that has been studied for coordination. With Bus Rapid Transit and other transit corridor endeavors being planned, a SANBAG policy committee that focuses on multimodalism and transit connectivity may be warranted in the near future. This concept might be linked to SANBAG's current standing commuter rail committee which provides a major travel mode in the county.	Medium Priority

## Section I

### Introduction – Initial Review of RTPA Functions

The San Bernardino Associated Governments (SANBAG) has retained the PMC team to conduct its Transportation Development Act (TDA) performance audit covering the most recent triennial period, Fiscal Years (FY) 2005-06 through 2007-08. As a Regional Transportation Planning Agency (RTPA), SANBAG is required by Public Utilities Code (PUC) Sections 99246 and 99248 to prepare and submit an audit of its performance on a triennial basis to the California Department of Transportation (Caltrans) in order to continue receiving TDA funding. This performance audit is intended to describe how well SANBAG is meeting its administrative and planning obligations under TDA as well as its organizational management and efficiency.

#### Audit Methodology

To gather information for this performance audit, PMC accomplished the following activities:

- Document Review: PMC conducted an extensive review of documents including various SANBAG files and internal reports, committee agendas and public documents.
- Interviews: PMC interviewed key SANBAG management staff as well as the transit operators under SANBAG's jurisdiction. Interviews were also conducted with stakeholders that serve on the SANBAG Public and Specialized Transportation Advisory and Coordination Council (PASTACC).
- Analysis: PMC evaluated the responses from the interviews as well as the documents reviewed about SANBAG's responsibilities, functions and performance to TDA guidelines and regulations.

The remainder of this report is divided into four chapters. In Chapter II, PMC provides a review of the compliance requirements of the TDA administrative process. Chapter III describes SANBAG's responses to the recommendations provided in the previous performance audit. In Chapter IV, PMC provides a detailed review of SANBAG's functions. The last section summarizes our findings and recommendations.

#### Overview of SANBAG

SANBAG was established in 1973 as a Joint Powers Agency (JPA) of the County of San Bernardino and the incorporated cities in the county. Today, SANBAG's membership has expanded to include 24 cities. The member jurisdictions include the following entities:

City of Adelanto	City of Montclair
Town of Apple Valley	City of Needles
City of Barstow	City of Ontario
City of Big Bear Lake	City of Rancho Cucamonga
City of Chino	City of Redlands
City of Chino Hills	City of Rialto
City of Colton	City of San Bernardino
City of Fontana	City of Twentynine Palms
City of Grand Terrace	City of Upland
City of Hesperia	City of Victorville
City of Highland	City of Yucaipa
City of Loma Linda	Town of Yucca Valley
County of San Bernardino	

San Bernardino County is located in the Inland Empire region of Southern California, stretching nearly 200 miles across. The county is bordered by Inyo County to the north, Kern and Los Angeles counties to the west, Riverside County to the south, Orange County to the southwest, the State of Nevada to the northeast and the Colorado River to the east. San Bernardino County was created in 1853 from parts of Los Angeles County. The county is geographically the largest in the continental United States encompassing over 21,000 square miles and is traversed by 2,834 miles of County-maintained roadways. Population growth has seen a marked increase in recent years. Based upon the 2000 U.S. Census, the county's population was 1.7 million, the fourth largest in the state. The 2008 California Department of Finance (DOF) estimate reports a countywide population of 2.05 million, the sixth largest in the state. The most populous cities within the county include the county seat of San Bernardino (205,493), Fontana (188,498), Rancho Cucamonga (174,308), Ontario (173,690), and Victorville (107,408).

Against this backdrop of rapid population growth, San Bernardino County's economy has become increasingly diverse and robust. This is attributed to the large amount of goods movement and distribution facilities in the region. The Interstate 10 (I-10), I-15 and I-215 corridors have become major development areas for such activities. However, the recent economic challenges facing the county due to the worldwide financial crisis and recession have resulted in contractions in the housing market and increased unemployment.

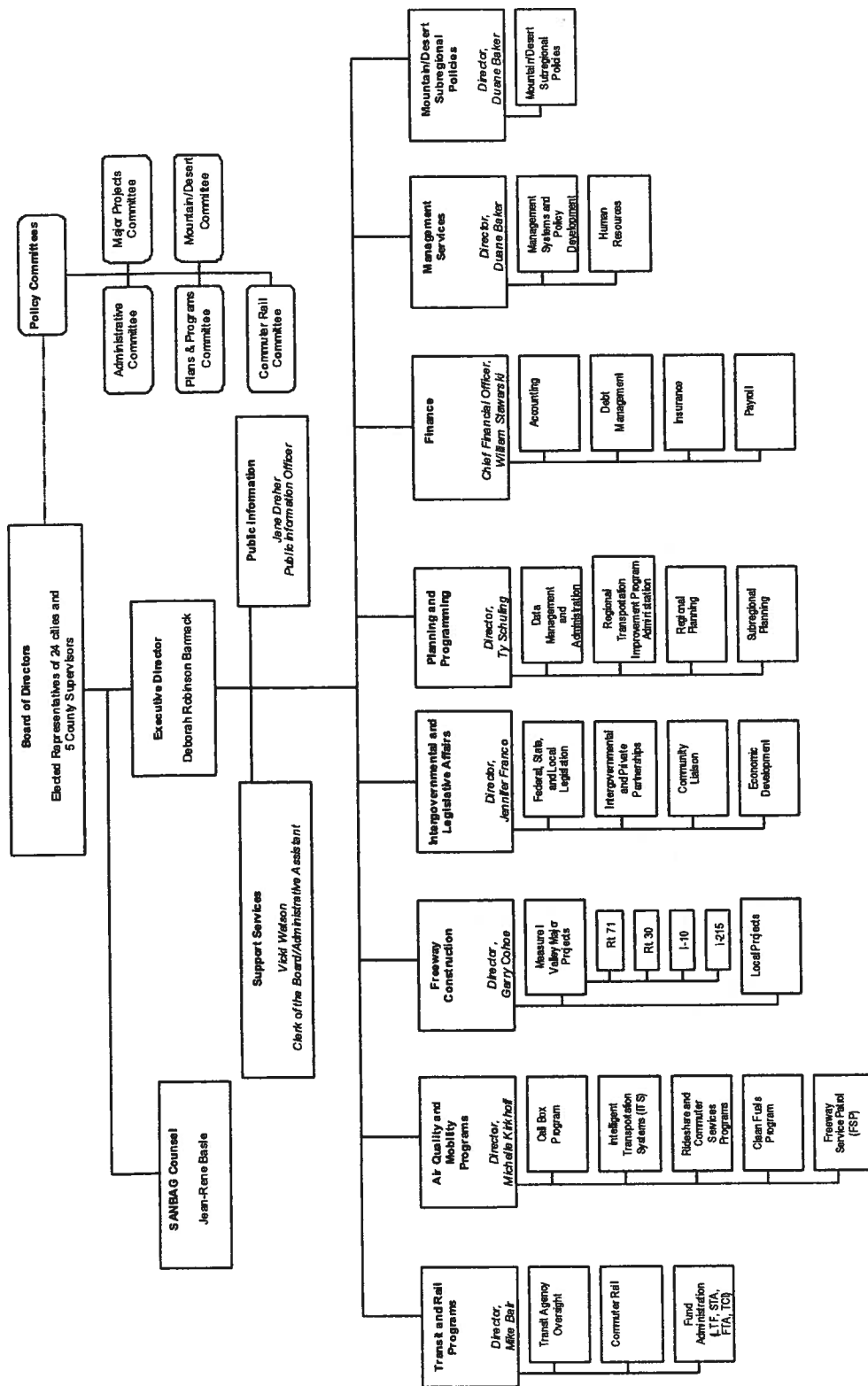
The current economic and population trends have created the need to plan and implement a myriad of transportation projects encompassing all modes including toll roads, commuter rail and enhanced bus transportation. SANBAG has committed itself to be an effective facilitator of mobility throughout the county.

### Role of SANBAG

Similar to many other large regional transportation planning agencies in California, SANBAG has a complex legal structure, which delineates its responsibilities in the areas of transportation, planning, and investment decision-making. SANBAG's original 1973 JPA has served as the foundation upon which several additional responsibilities have been added in later years by the state legislature. In addition to its primary role as a Council of Governments, SANBAG also serves as the County Transportation Commission, County Transportation Authority, County Congestion Management Agency, Service Authority for Freeway Emergencies, and Sub-Regional Planning Agency. Figure I-1 depicts the organization chart of SANBAG as of late 2008.

Figure I-1

# SANBAG Organization Chart



SANBAG Org Chart-Functional 8/18/08

Source: SANBAG FY 2008-09 Budget

### County Transportation Commission

In 1976, State Assembly Bill (AB) 1246 was enacted designating SANBAG as a county transportation commission. This statute broadened SANBAG's range of responsibilities to include coordination and approval of all public mass transit services, approval of all capital development projects for transit and highway systems, and determination of staging possibilities for near-term transportation planning and programming.

With AB 1246, SANBAG, in essence, became the transportation programming agency for San Bernardino County. In addition, SANBAG assumed responsibility for the five-year capital outlay program, the regional transportation improvement program (RTIP) for the county. The RTIP is submitted to the California Transportation Commission (CTC) for inclusion in the statewide five-year transportation investment program referred to as the State Transportation Improvement Program (STIP).

In 1990, the state legislature assigned to SANBAG the responsibility for managing all aspects of the TDA program. This action ensured that the agency had multimodal transportation planning responsibilities.

Until the passage of State Senate Bill (SB) 45 in 1997, the STIP was directed by the CTC. However, the enactment of SB 45 made significant changes to the STIP process. Specifically, SB 45 made SANBAG (as well as other regional agencies) the final arbitrator of the projects in its jurisdiction that are to be chosen for inclusion in the STIP. Thus, under the terms of SB 45, SANBAG became responsible for prioritizing 75 percent of the state transportation capital outlay funds available to San Bernardino County during each two-year STIP cycle. Before SB 45, the individual projects in the RTIP that SANBAG and other regional transportation planning agencies submitted to the CTC for inclusion into the STIP were subject to negotiations with the Commission.

### County Transportation Authority

SANBAG's designation as a county transportation authority allows it to administer Measure I, the countywide half-cent transportation sales tax initiative. The twenty-year funding program for transportation projects won voter approval in November 1989. In 2004, county voters overwhelmingly approved the 2010-2040 Measure I Extension. As administrator of the Measure I program, SANBAG is responsible for determining which projects receive Measure I funding and ensuring that transportation projects are implemented.

### County Congestion Management Agency

In its role as the county's congestion management agency, SANBAG manages the performance level of the regional transportation system, which takes into consideration development impacts and air quality conformity. To this end, SANBAG develops a

Congestion Management Program (CMP), which defines a network of state highways and arterials, level of service standards and related procedures, and provides technical justification for the approach. The most recent CMP was adopted by the SANBAG Board in 2007.

*Service Authority for Freeway Emergencies (SAFE)*

SANBAG serves as the Service Authority for Freeway Emergencies, which develops and operates a system of approximately 1,400 call boxes on highways and arterials throughout the county. Each call box is a battery-powered, solar-charged roadside cellular telephone. Call boxes are usually placed in pairs across from each other at approximately one-half mile to one mile intervals in urbanized areas, with greater spacing in rural areas. The SAFE call box network is operated in close coordination with both the California Highway Patrol (CHP) and Caltrans.

*Sub-Regional Planning Agency*

As a sub-regional planning agency, SANBAG represents the San Bernardino County region and assists the Southern California Association of Governments (SCAG) in its role as the federally designated metropolitan planning agency (MPO) for the county. SANBAG staff actively participates on various committees of SCAG, which make technical recommendations to SCAG's policy makers.

An important feature of SANBAG is that it operates in a complex intergovernmental environment, which requires ongoing communications and coordination with agencies at the local, regional, state and federal levels of government. This means, for example, that its transportation plan and RTIP must be coordinated with the regional transportation planning and programming process managed by SCAG. SANBAG must also coordinate its highway development programs with the Riverside County Transportation Commission (RCTC), Orange County Transportation Authority (OCTA), Los Angeles County Metropolitan Transportation Authority (LACMTA) and Caltrans. SANBAG interacts regularly with county government, the cities in the county and the county's transit operators to ensure coordination between SANBAG policies and programs and the member agencies' programs and services.

In addition, in collaboration with Los Angeles, Orange, Riverside and Ventura counties, SANBAG is a founding partner of the Southern California Regional Rail Authority (SCRRA), the region's Metrolink commuter rail service provider. Metrolink operates the San Bernardino Line, which runs between San Bernardino and Los Angeles Union Station. The San Bernardino Line is the most heavily traveled line in the Metrolink network. The Riverside Line operates between the City of Riverside and Union Station with a Metrolink Station located in East Ontario. In addition, the Inland Empire-Orange County line runs between San Bernardino and various Orange County destinations. Two members from SANBAG's Board of Directors serve on SCRRA's governing board.

In a partnership with the Riverside County Transportation Commission (RCTC), the Commuter Assistance Program provides assistance to all of the Inland Empire through the <http://www.commutessmart.info> website (a one-stop shop for commuters) and its ride-matching functionality on behalf of Los Angeles, Orange, San Bernardino and Ventura counties.

### Organizational Structure

SANBAG's governing body is the Board of Directors comprising 29 voting members, the SANBAG Executive Director and one ex-officio member, currently Caltrans' District 8 Director, who represents the governor. Of the 29 members, 5 are members of the County Board of Supervisors and the remaining 24 members are elected officials from each of the incorporated jurisdictions in the county. The SANBAG Board meets on the first Wednesday of every month. The Board also has five committees and three technical advisory committees to assist in providing policy recommendations in its decision-making process. The committees consist of the following:

Committee	Purpose and Function
<b>Administrative Committee</b>	<p>This committee makes recommendations to the Board of Directors and</p> <ul style="list-style-type: none"> <li>• Provides general policy oversight that spans the multiple program responsibilities of the organization and maintains the comprehensive organization integrity.</li> <li>• Provides policy direction with respect to administrative issues, policies, budget, finance, audit, and personnel issues for the organization.</li> <li>• Serves as the policy review committee for any program area that lacks active policy committee oversight.</li> </ul> <p>Meetings convene at 9 a.m. on the second Wednesday of the month and comprise nine SANBAG Board members (3 East Valley, 3 West Valley, 3 Mountain/Desert). The Committee has authority to approve contracts up to \$25,000 with Board ratification to follow.</p>
<b>Commuter Rail Committee</b>	<p>This committee provides policy guidance and recommendations to the SANBAG Board and SCRRA delegates with respect to commuter rail service in San Bernardino County. The Commuter Rail Committee, comprising 9 Valley-elected officials, convenes at 12 noon on the third Thursday following the SANBAG Board meeting during odd-numbered months.</p>
<b>Major Projects Committee</b>	<p>This committee provides policy guidance and recommendations to the Board of Directors on issues related to the Measure I Major</p>



	<p>Projects in the Valley region. The committee, comprising board members from jurisdictions in the Valley and County Supervisors representing areas in the Valley, meets at 9 a.m. on the second Thursday of every month following the SANBAG Board meeting.</p>
<b>Mountain/Desert Committee</b>	<p>This committee provides ongoing policy-level oversight related to the full array of SANBAG responsibilities as they pertain specifically to the Mountain/Desert region.</p> <p>The committee also meets as the Mountain/Desert Measure I Committee as it carries out responsibilities for the Measure I Mountain/Desert Region Expenditure Plan. Membership consists of SANBAG Board Members from each Mountain/Desert jurisdiction and County Supervisors representing the First and Third Districts. The committee regularly meets at 9 a.m. on the third Friday of every month.</p>
<b>Plans and Programs Committee</b>	<p>This committee provides ongoing policy-level oversight for:</p> <ul style="list-style-type: none"> <li>• The countywide Comprehensive Transportation Plan and input into the revisions of the Regional Transportation Plan.</li> <li>• Congestion Management Program (CMP) revisions, policies relative to deficiency plans, state and federal funding and programming requirements, and related issues.</li> <li>• Programs to implement or coordinate subregional or local transportation control measures.</li> <li>• Programming issues related to the CMP Capital Improvement Program, the Regional Transportation Improvement Program (RTIP) and air quality conformity.</li> </ul> <p>The Plans and Programs Committee regularly meets at 12 noon on the third Wednesday of every month. The Committee has authority to approve contracts up to \$25,000 with notification to the Board.</p> <p>Membership consists of three city SANBAG Board Members from each of the West Valley, East Valley, and Mountain/Desert subregions and all County Supervisors. City members are elected by caucus of city SANBAG Board Members within the subarea.</p>

There are three ad-hoc committees that are listed on SANBAG's Policy Committee Membership roster. These include the Ad Hoc Committee on Debt Financing, the Ad Hoc

Committee to Review Council of Government Roles, and the Ad Hoc Committee on Litigation with San Bernardino County Flood Control District (Colonies Development). Each of these committees was formed and members appointed between June 2006 and May 2007 to address their specific issues.

In addition to the policy committees, there are three Technical Advisory Committees (TAC) that review and discuss selected regional and technical issues before these items are presented to policy committees and the Board of Directors. The first TAC is the City-County Managers Technical Advisory Committee (CCM-TAC), which meets to discuss issues of a regional nature and of mutual concern countywide and makes recommendations to the Board of Directors. Representatives include members of the County Administrative Office and the city manager or city administrator from each of the 24 cities in San Bernardino County. The CCM-TAC generally meets the third Thursday of the month at SANBAG's offices in San Bernardino.

The second TAC is the Comprehensive Transportation Plan Technical Advisory Committee (CTP-TAC), which comprises city engineers, public works directors and other technical representatives from San Bernardino County and individual cities countywide. The CTP-TAC reviews and discusses selected technical transportation issues and meets on the second Monday of the month.

The third TAC is the Public and Specialized Transportation Advisory and Coordination Council (PASTACC), which is the SANBAG-sponsored advisory body established under the California Transportation Development Act Section 99238. In San Bernardino County, PASTACC brings together public transit operators and social service transportation providers to discuss the mobility issues and challenges that confront seniors, persons with disabilities or persons of limited means. PASTACC members examine a wide range of topics at quarterly meetings for purposes of assisting SANBAG on matters related to social service transportation or public transportation services in San Bernardino County for the elderly, persons with disabilities or persons of limited means.

#### Agency Budget

According to the annual audited financial statements, SANBAG's annual revenue for the fiscal years covered by this audit ranged from \$310.7 million in FY 2006 to \$307.1 million in FY 2007 to \$286.7 million in FY 2008. This reflects a nearly 8 percent decrease over the last three years. Deteriorating economic conditions that led to declines in sales tax revenues for Measure I and the Local Transportation Fund, as well as fluctuations in state and federal revenues, contributed to the decrease in revenue. The winding down of major projects has also contributed to the reduced revenue.

SANBAG's annual expenditures ranged from \$282.8 million in FY 2006 to \$300.9 million in FY 2007 to \$289.7 million in FY 2008. This reflects a 6 percent increase between fiscal years 2006 and 2007, and then a 4 percent decrease between fiscal years

2007 and 2008. Over a three-year period, SANBAG salaries and wages increased 24 percent which recognizes the increase in staffing levels to manage its growing programs. The cost of staff salaries and benefits amounts to between 1.3 and 1.5 percent of the agency's annual total expenses.

## Section II

### RTPA Compliance Requirements

Fourteen key compliance requirements are suggested in the *Performance Audit Guidebook for Transit Operators and Regional Transportation Planning Agencies, September 2008 (third edition)*, which was developed by the Department of Transportation (Caltrans) and used to assess SANBAG's conformance with TDA. Our findings concerning SANBAG's compliance with State legislative requirements are summarized in Table II-1.

TABLE II-1 SANBAG Compliance Requirements Matrix		
SANBAG Compliance Requirements	Reference	Compliance Efforts
All transportation operators and city or county governments which have responsibility for serving a given area, in total, claim no more than those Local Transportation Fund (LTF) monies apportioned to that area.	Public Utilities Code, Section 99231	<p>SANBAG accounts for its claimants' areas of apportionment and has not allowed those claimants to claim more than what is apportioned for their area. SANBAG makes this finding in each adopted resolution approving LTF claims.</p> <p>Each claimant's apportionments follow the population formula prescribed by law.</p> <p><b>Conclusion: Complied.</b></p>
The RTPA has adopted rules and regulations delineating procedures for the submission of claims for facilities provided for the exclusive use of pedestrians and bicycles.	Public Utilities Code, Sections 99233.3 and 99234	<p>As described in the SANBAG TDA Application Manual, SANBAG has an adopted set of policies governing the Article 3 Bicycle and Pedestrian Facilities Program. SANBAG sets aside 20 percent of Article 3 revenue for a biennial call for projects for those bicycle and pedestrian projects that will improve access to transit stops. The remaining 80 percent is combined with Transportation Enhancement Activity funds and is allocated through a separate call for projects. Upon project approval, applicants have up to two years to complete the project.</p> <p><b>Conclusion: Complied.</b></p>

<p align="center"><b>TABLE II-1</b>  <b>SANBAG Compliance Requirements Matrix, continued</b></p>		
<b>SANBAG Compliance Requirements</b>	<b>Reference</b>	<b>Compliance Efforts</b>
<p>The RTPA has established a social services transportation advisory council. The RTPA must ensure that there is a citizen participation process which includes at least an annual public hearing.</p>	<p>Public Utilities Code, Sections 99238 and 99238.5</p>	<p>To meet compliance, SANBAG established the Public and Specialized Transportation Advisory and Coordination Council (PASTACC) as an advisory body to serve as the Citizens Advisory Committee (CAC) required under PUC 99238.5 and the Social Services Transportation Advisory Council required under PUC 99238. It serves as a forum where public transit operators and social service transportation providers can discuss mobility issues that confront seniors, persons with disabilities, or persons with limited means.</p> <p><b>Conclusion: Complied</b></p>
<p>The RTPA has annually identified, analyzed and recommended potential productivity improvements which could lower the operating costs of those operators which operate at least 50 percent of their vehicle service miles within the RTPA's jurisdiction. Recommendations include, but are not limited to, those made in the performance audit.</p> <ul style="list-style-type: none"> <li>• A committee for the purpose providing advice on productivity improvements may be formed.</li> <li>• The operator has made a reasonable effort to implement improvements recommended by the RTPA, as determined by the RTPA, or else the operator has not received an allocation which exceeds its prior year allocation.</li> </ul>	<p>Public Utilities Code, Section 99244</p> <p>(continued on next page)</p>	<p>SANBAG administers a Productivity Improvement Program, which requires operators to report on a number of performance measures.</p> <p>In conjunction with the annual TDA claims, SANBAG requires each transit operator or claimant to annually submit a Productivity Improvement Progress Report on its productivity efforts. SANBAG reviews the reports in the context of the operator's TDA claim. SANBAG identifies three topics for the reports: performance measures, performance audit recommendations, and specific claimant-initiated efforts to improve productivity. SANBAG also commissions short-range transit plans that assess operator performance and make recommendations for service improvement.</p> <p>Sufficient information must be provided by the operators to</p>

TABLE II-1 SANBAG Compliance Requirements Matrix, continued		
SANBAG Compliance Requirements	Reference	Compliance Efforts
		<p>enable SANBAG to determine if a reasonable effort was made to implement the recommendations. This includes a discussion of the efforts taken to implement recommendations from the audits, identification of any problems, the success or difficulties of implementing recommendations, and the next steps that will be taken to further implementation.</p> <p>From a review of TDA claims during the audit period, there did not appear to be a consistent submittal of productivity improvement program reports from the transit claimants covering each of the three topic areas such as the status of implementing performance audit recommendations. TransTrack is also intended to standardize the performance data that operators submit to SANBAG, but the operating data has contained inaccuracies and has not yet been utilized as envisioned. Additional effort should be made to comply with this TDA requirement.</p> <p><b>Conclusion: Partial Compliance</b></p>
The RTPA has ensured that all claimants to whom it allocates Transportation Development Act (TDA) funds submit to it and to the state controller an annual certified fiscal and compliance audit within 180 days after the end of the fiscal year (December 27). The RTPA may grant an extension of up to 90 days as it deems necessary (March 26).	Public Utilities Code, Section 99245	<p>For the three-year audit period, SANBAG has received most of the fiscal and compliance audits from the claimants by the established dates set by the State Controller. However, a few transit fiscal and compliance audits for the transit operators for FY 2007-08 were late due to a change in reporting format.</p> <p><b>Conclusion: Partial Compliance</b></p>

TABLE II-1 SANBAG Compliance Requirements Matrix, continued		
SANBAG Compliance Requirements	Reference	Compliance Efforts
<p>The RTPA has designated an independent entity to conduct a performance audit of operators and itself (for the current and previous triennium).</p> <p>For operators, the audit was made and calculated the required performance indicators, and the audit report was transmitted to the entity that allocates the operator's TDA monies and to the RTPA within 12 months after the end of the triennium. If an operator's audit was not transmitted by the start of the second fiscal year following the last fiscal year of the triennium, TDA funds were not allocated to that operator for that or subsequent fiscal years until the audit was transmitted.</p>	Public Utilities Code, Sections 99246 and 99248	<p>For the current three-year audit, SANBAG has retained PMC to conduct the audit of SANBAG and the six transit operators. The operator audits include calculation of the required TDA performance indicators.</p> <p>Arthur Bauer &amp; Associates, Inc. was retained to conduct the previous audit for the three fiscal years that ended June 30, 2005.</p> <p><b>Conclusion: Complied</b></p>
The RTPA has submitted a copy of its performance audit to the Director of the California Department of Transportation. In addition, the RTPA has certified in writing to the Director that the performance audits of the operators located in the area under its jurisdiction have been completed.	Public Utilities Code, Section 99246(c)	<p>SANBAG submitted a written letter to Caltrans certifying compliance with this requirement. The letter was enclosed with the FY 2002-03 through 2004-05 performance audit of SANBAG.</p> <p><b>Conclusion: Complied</b></p>
The performance audit of the operator providing public transportation service shall include, but not be limited to, a verification of the operator's operating cost per passenger, operating cost per vehicle service hour, passengers per vehicle service mile, and vehicle service hours per employee, as defined in Section 99247. The performance audit shall include, but not be limited to, consideration of the needs and types of passengers being served and the employment of part-time drivers and the	<p>Public Utilities Code, Section 99346(d)</p> <p>(continued on next page)</p>	<p>The performance audits of the operators include all required TDA performance measure plus additional indicators to further assess each operator's efficiency, effectiveness and economy with the use of TDA funds.</p> <p><b>Conclusion: Complied</b></p>

<p align="center"><b>TABLE II-1</b> <b>SANBAG Compliance Requirements Matrix, continued</b></p>		
<b>SANBAG Compliance Requirements</b>	<b>Reference</b>	<b>Compliance Efforts</b>
contracting with common carriers of persons operating under a franchise or license to provide services during peak hours, as defined in subdivision (a) of Section 99260.2.		
The RTPA has established rules and regulations regarding revenue ratios for transportation operators providing services in urbanized and new urbanized areas.	Public Utilities Code, Section 99270.1 and 99270.2	<p>There is one transit operator under SANBAG's jurisdiction, Victor Valley Transit Authority (VVTA), which serves both urbanized and non-urbanized areas. SANBAG has developed and adopted rules and regulations in 1997 with Caltrans' approval for determining the minimum fare ratios for the transit operators. For VVTA, the minimum farebox recovery ratio is 15 percent for fixed route service and 10 percent for ADA demand response.</p> <p><b>Conclusion: Complied</b></p>
The RTPA has adopted criteria, rules and regulations for the evaluation of claims under Article 4.5 of the TDA and the determination of the cost-effectiveness of the proposed community transit services.	Public Utilities Code, Section 99275.5	<p>Not applicable, as SANBAG only allocates transit funds through Article 4 and Article 8 claims at the time of the audit.</p> <p><b>Conclusion: Not Applicable</b></p>
<p>State transit assistance funds received by the RTPA are allocated only for transportation planning and mass transportation purposes.</p> <p>(Note: The June 5, 1990, passage of Proposition 116 no longer allows the use of state transit assistance funds for street and road purposes, as had been permitted in certain cases under PUC Section 99313.3.)</p>	Public Utilities Code, Sections 99310.5 and 99313.3 and Proposition 116	<p>SANBAG allocates State Transit Assistance (STA) funds for transit services only. Per SANBAG policy, STA is primarily used to fund transit capital projects.</p> <p><b>Conclusion: Complied</b></p>



TABLE II-1 SANBAG Compliance Requirements Matrix, continued		
SANBAG Compliance Requirements	Reference	Compliance Efforts
The amount received pursuant to Public Utilities Code, Section 99314.3, by each RTPA for state transit assistance is allocated to the operators in the area of its jurisdiction as allocated by the State Controller's Office.	Public Utilities Code, Section 99314.3	SANBAG administers STA funds in accordance with the relevant PUC requirements (i.e., on the basis of population and operator revenues).  <b>Conclusion: Complied</b>
<p>If TDA funds are allocated to purposes not directly related to public or specialized transportation services, or facilities for exclusive use of pedestrians and bicycles, the transit planning agency has annually:</p> <ul style="list-style-type: none"> <li>• Consulted with the Social Services Transportation Advisory Council (SSTAC) established pursuant to Public Utilities Code, Section 99238;</li> <li>• Identified transit needs, including: <ul style="list-style-type: none"> <li>○ Groups that are transit-dependent or transit-disadvantaged,</li> <li>○ Adequacy of existing transit services to meet the needs of groups identified, and</li> <li>○ Analysis of potential alternatives to provide transportation services;</li> </ul> </li> <li>• Adopted or re-affirmed definitions of "unmet transit needs" and "reasonable to meet";</li> <li>• Identified the unmet transit needs and those needs that are reasonable to meet;</li> <li>• Adopted a finding that there are no unmet transit needs; that there are no unmet transit needs that are reasonable to meet; or that there are unmet transit needs including needs that are reasonable to meet.</li> </ul>	<p>Public Utilities Code, Section 99401.5</p> <p>(continued on next page)</p>	<p>TDA funds are used exclusively for public transit in the San Bernardino Valley (Omnitrans and Metrolink). In the mountain and high desert regions, TDA revenues may be used for streets and roads, as is the case for local jurisdictions comprising VVTA and MBTA, as well as City of Needles. City of Big Bear Lake and City of Barstow currently use all TDA for transit. SANBAG conducts the unmet transit needs hearings in concert with each of the transit operators and in consultation with the PASTACC. Annual unmet needs hearings are typically held in Victorville (upper desert region), Big Bear Lake/Crestline (mountain region) and Joshua Tree (lower desert region). Findings of the unmet needs process are reaffirmed by the entire SANBAG Board. The definitions of "unmet transit needs" and "reasonable to meet" are reaffirmed annually, and findings of the unmet needs process are adopted through Board resolution.</p> <p>LTF funds have only been allocated to streets and roads after completion of the unmet needs process.</p> <p><b>Conclusion: Complied</b></p>

TABLE II-1 SANBAG Compliance Requirements Matrix, continued		
SANBAG Compliance Requirements	Reference	Compliance Efforts
If a finding is adopted that there are unmet transit needs, these needs must have been funded before an allocation was made for streets and roads.		
The RTPA has caused an audit of its accounts and records to be performed for each fiscal year by the county auditor or a certified public accountant. The RTPA must transmit the resulting audit report to the State Controller within 12 months of the end of each fiscal year and must be performed in accordance with the Basic Audit Program and Report Guidelines for California Special Districts prescribed by the State Controller. The audit shall include a determination of compliance with the transportation development and accompanying rules and regulations. Financial statements may not commingle the state transit assistance fund, the local transportation fund, or other revenues or funds of any city, county or other agency. The RTPA must maintain fiscal and accounting records and supporting papers for at least four years following the fiscal year close.	California Administrative Code, Section 6662	<p>The accounting firm of McGladrey &amp; Pullen, LLP conducted the financial audit of SANBAG for FY 2006, and the accounting firm of Vavrinek, Trine, Day &amp; Co., LLP conducted the audit for FYs 2007 and 2008. The Comprehensive Annual Financial Report was submitted to the State Controller within 12 months of the end of each fiscal year. Submittal dates were November 20, 2006, for the FY 2006 audit; March 6, 2008, for the FY 2007 audit; and December 22, 2008, for the FY 2008 audit.</p> <p><b>Conclusion: Complied</b></p>

### **Findings and Observations from RTPA Compliance Requirements Matrix**

In our opinion, SANBAG has satisfactorily complied with most State legislative mandates for Regional Transportation Planning Agencies. One compliance measure was not applicable. A few compliance areas were partially met, including the mandate for SANBAG to analyze and recommend potential productivity improvements for the transit operators, as well as to ensure the fiscal and compliance audits were submitted to the State according to the statutory timelines. A few of the FY 2007-08 TDA fiscal audits of the transit operators were not submitted to the State on time due to a change in reporting format.

To its credit, SANBAG has conducted extensive outreach during the annual unmet transit needs process by holding at least three public hearings in various locations throughout the Mountain/Desert Region to take public testimony and by accepting written and Internet correspondence. The public hearings are held where public transit services are provided in each subregion. TDA statute requires at least one public hearing whereas SANBAG sponsors three.

## Section III

### Prior Triennial Performance Audit Recommendations

This chapter describes SANBAG's response to the recommendations included in the prior triennial performance audit prepared by Arthur Bauer & Associates, Inc. For this purpose, each prior recommendation for the agency is described, followed by a discussion of the agency's efforts to implement the recommendation. Conclusions concerning the extent to which the recommendations have been adopted by the agency are then presented.

#### Prior Recommendation 1

Develop a succession strategy to ensure continuity in the management of the TDA program upon the retirement of key staff.

Actions taken by SANBAG: The Director of Transit and Rail Programs retired in January 2009 and has been working on a limited contract basis to ensure continuity with the current recruitment of a new director. The TDA program managed by SANBAG comprises several aspects such as the ongoing claims processing and funding, monitoring transit performance, coordinating transit advisory meetings, providing grant assistance, and conducting the annual unmet transit needs hearings. Many of these programs are managed by SANBAG transit staff including the Senior Transit Analyst and Transit Analyst. There is also a Transit Specialist position that is currently vacant which is intended to assist with transit and TDA administration. Staff has been able to focus on the administration and implementation side of TDA and transit operations while the Director of Transit and Rail Programs has been able to focus more on transit policy.

SANBAG is anticipating that the new director will be versed in both transit and rail programs, and can continue the successful management of these programs. While any transition in top management presents challenges, most TDA programming is already being administered by the current transit analysts. In addition, the continued work by the recently retired director on a contract basis has helped during this transition period.

As a note to our observation, because of the complexities and resource effort associated with managing the components of TDA, consideration should be given to ensuring staff development that enables senior staff and management to continue training analysts and others regarding the responsibilities and compliance with TDA to provide a seamless knowledge transfer and high level of competency within the agency.

Conclusion: This recommendation has been implemented in that the transit analysts have assumed much of the TDA administration and management during the transition period of recruiting for a new Director of Transit and Rail Programs. As follow up, it is recommended that continuous training in the various programs and compliance requirements of TDA be offered to transit staff to ensure a seamless knowledge transfer and high level of competency within the agency.

Prior Recommendation 2

Update the Transportation Development Act Fund Application Manual to reflect changes in the statutes.

Actions taken by SANBAG: The TDA Fund Application Manual that was developed in October 2002 continues to be the current document issued by SANBAG. Staff has not had the opportunity to update the document to include new provisions in state law that impact TDA. In addition, SANBAG has transitioned to the use of TransTrack as the primary performance reporting tool which replaces the previous TOPRS program. The updated TDA manual should also reflect changes to its TDA claims forms which have been updated recently. The FY 2009-10 SANBAG budget includes resources to conduct the update.

Conclusion: This recommendation has not been implemented.

Follow-up: This recommendation is carried forward in this audit for full implementation.

## Section IV

### Detailed Review of RTPA Functions

In this section, a detailed assessment of SANBAG's functions and performance as a RTPA during this audit period is provided. Adapted from Caltrans' *Performance Audit Guidebook for Transit Operators and Regional Transportation Planning Agencies, September 2008 (third edition)*, SANBAG's activities can be divided into the following activities:

- Administration, Management and Coordination
- Transportation Planning and Programming
- TDA Claimant Relationships and Oversight
- Public Information and External Affairs
- Grant Application and Management

### Administration, Management and Coordination

SANBAG's mission is to enhance the quality of life for all residents in San Bernardino County by:

- Improving cooperative regional planning
- Developing an accessible, efficient, multimodal transportation system
- Strengthening economic development efforts
- Exerting leadership in creative problem solving

The SANBAG Board of Directors approved this mission statement on June 2, 1993, and reaffirmed it on March 6, 1996.

#### Staffing

SANBAG has seen notable changes and challenges in staffing during the audit period, particularly at the senior management and executive leadership level. The agency has recruited two new Executive Directors in the past three years, the first holding the position for about two years and the current Executive Director holding the position for about a year. The current Executive Director is an internal hire and formerly the Director of Management Services and Mountain/Desert Subregional Policies. This latter position was filled in August 2008 after being vacant for about a year. A new Director of Freeway

Construction was also hired in the last year. SANBAG is moving toward developing in-house capabilities to manage large-scale freeway construction projects.

As part of the staffing changes, there have been four Chief Financial Officers during the audit review period, each having different financial backgrounds. The current CFO brings municipal finance experience, having been recruited from a local city in Los Angeles County. There was turnover in the Accounts Manager position as well in the finance department. In addition, the Director of Transit and Rail Programs announced his retirement effective January 2009 but has continued on a part-time basis as a contract employee as the agency actively recruits for a replacement. Changes in top management have occurred as the agency continues to grow in overall staff, mainly in the Administrative/Professional Group.

According to the SANBAG FY 2008-09 budget, total staff grew from about 34 positions in FY 2007 to 40 in FY 2008, with plans for up to 43 positions during FY 2009 (these include Chief of Alternative Project Financing, Transportation Planning/Programming Analyst, and Transit Specialist). Support staff and senior management staff have remained constant, while administrative and professional level staff have increased from 14 positions to 23 positions. These additional positions included the hiring of a Transit Analyst in August 2006.

WTS is an international organization dedicated to the professional advancement of women in transportation. More than half of SANBAG employees are members of the Inland Empire Chapter of WTS, including five executive staff and four who serve in chapter leadership roles.

#### Capital Project Development

Projects are prioritized on a regional basis and documented through expenditure plans and programming documents that have been approved through review and consensus building. Through the development of comprehensive planning documents and compliance with state and regional transportation programming requirements, the agency is able to stimulate project development. The collaboration among the departments within SANBAG and its partners has enabled capital projects to receive funding and be delivered, especially projects funded through the Measure I local sales tax and the local transportation fund.

Guidance on implementation of Measure I is provided through the Measure I Strategic Plan which provides for the allocation and administration of local, state and federal transportation revenues. SANBAG also acts as the pass-through agency for Measure I and LTF funding and disperses the funds to cities, subareas, transit operators and other claimants. Pass-through funds have ranged from \$109 million to \$133 million per year over the last three years.

### Internal Controls

The SANBAG annual budget is a working document that is task driven and identifies the specific work elements that SANBAG will undertake for the coming fiscal year. As SANBAG continues to grow in staff, the interaction between the departments as well as with its stakeholders also becomes more complex. For example, the relationship between programming and capital development becomes more crucial as funding requirements need to be in place for project delivery. This brings to light the process that SANBAG is undertaking to formalize its internal practices.

SANBAG is updating its financial software, having outgrown its current system, and recently installed and tested a new system. Tyler Technologies, Inc. is supplying SANBAG with the EDEN financial management software, including core financial and human resource applications. In addition to software licenses, the contracts include related professional services, ongoing maintenance and support. The software features Project Accounting and Contract Management applications that respond to the specific needs of special districts. Project Accounting will provide the agency with multi-year, multi-phase project tracking and reporting, as well as the ability to carry forward from one budget year to the next.

The EDEN software package supports multiple internal and external funding, including local measures and federal and state grants. SANBAG will have the ability to prioritize funding sources and define percentages with the revenue allocation feature. The system also simplifies the reimbursement process by automating the creation of general journal entries and accounts receivable invoices for reimbursement requests. SANBAG is contracting with the County to provide project management of the financial system integration which is anticipated to go live in July 2009.

In conjunction with the financial system overhaul, SANBAG is documenting current desk procedures and policies as a means to communicate the standard operating procedures in light of management turnover. Any financial policy changes have been placed on hold until the new financial system is functional. The current CFO is also redesigning the chart of accounts to meet the agency's needs resulting from continued growth.

Another important endeavor being conducted by SANBAG is to improve the quality of documents presented to the Board. The objective is to improve communication between staff and Board members. After a gap of about five years between Board workshops, a recent workshop was held which identified several priorities for the agency. One priority is to further enhance a regional identity in order to bridge the interests of the San Bernardino Valley and Mountain/Desert areas. A second priority involves increased collaboration and cooperation in the area of legislative advocacy, which would also help to guide overall policy and enable the Board to speak with a more unified voice. A notable strength of the Board is to convene and find consensus on a host of issues. Another priority involves expanding SANBAG's activities as a COG, which would involve addressing the mortgage foreclosure crisis, water conservation, and climate



change conformity (AB 32/SB 375). However, obstacles to this endeavor include limited funding sources and local views about the impact of state legislation like climate change and sustainability.

### Personnel Management

Personnel management at SANBAG is the charge of the Director of Management Services. The current director has been with SANBAG since August 2008, slightly outside the audit period. The predecessor to the current director is currently the Executive Director. An Administrative Services Specialist was added to the department with a focus on general human resources and facilities management.

Based on the recommendation of a general audit, a specific policy on fraud was instituted. This new policy includes anonymous reporting procedures and protections as well as establishes a high standard of ethics.

SANBAG's Policies Manual is kept current and posted on the agency's Intranet system. This format makes it easier to keep up with the changes. Updates are also announced at staff meetings. The agency also instituted a flexible work schedule, known as the "9/80," which allows employees to work a nine-hour day and have every other Friday off. This new schedule is not mandatory and requires some adjustments in order to maintain adequate staffing levels, such as senior management being available on an on-call basis. Most SANBAG employees are classified as "exempt" or salaried. A classification compensation study is being conducted.

SANBAG's employee benefits are coordinated through the County of San Bernardino. The agency contributes to the San Bernardino County Employees' Retirement Association (SBCERA), a cost-sharing, multiple employer, defined benefit pension plan. SBCERA provides members retirement, death, disability, and cost-of-living benefits. SANBAG employees also have access to several health insurance plans (Health Net HMO/PPO and Kaiser Permanente HMO), a 457 deferred compensation plan and an Employee Assistance Program (EAP). Payroll processing services are also handled through the County.

### **Transportation Planning and Programming**

This functional area addresses planning functions required of SANBAG, including development of the Regional Transportation Improvement Program and the Congestion Management Program, Bicycle and Pedestrian Facilities Program, and Transit Planning including the Short Range Transit Planning process. Additional transportation programs administered by the agency are also discussed, including Freeway/Roadway Construction, Commuter Assistance Program and the Motorist Assistance Program. Lastly, the Measure I program is described as a major funding source for transportation improvements.

Regional Transportation Improvement Program (RTIP)

SANBAG is responsible for preparing the Regional Transportation Improvement Program (RTIP) for San Bernardino County projects that have been approved for federal and state funding. The RTIP is a listing of all capital improvement projects spanning a six-year period. Federal fund sources that SANBAG allocates include those prescribed through SAFETEA-LU, and State fund sources include programs created through the Proposition 1B Bond, State Transportation Improvement Program (STIP) and Regional Improvement Program (RIP).

Federal regulations require that all projects funded with state and federal funds be included in a RTIP in order to receive the funds. In addition, projects that are regionally significant but locally funded are also required to be included in the RTIP.

The RTIP is prepared to implement projects and programs in the Regional Transportation Plan (RTP), a 30-year, financially constrained, long-range planning document. SANBAG submits the county RTIP to the Southern California Association of Governments (SCAG), the Metropolitan Planning Organization (MPO) for the six-county region (Orange, Los Angeles, Imperial, Riverside, San Bernardino, and Ventura counties). SCAG is responsible for ensuring that the RTIP is consistent with the Regional RTP and adopted air plans. SCAG is the responsible agency for submittal of the RTIP to federal agencies for approval. The RTIP is generally updated every two years with amendments occurring between updates.

Congestion Management Program

SANBAG is the designated Congestion Management Agency (CMA) for San Bernardino County. As a CMA, SANBAG is responsible for developing a program that better links land use, transportation and air quality that prompt growth management strategies. The Congestion Management Plan (CMP) identifies deficiencies in the County transportation network that inhibit these growth strategies. The CMP involves the monitoring of congestion along a designated system that includes all highway facilities and selected major arterials. The system is monitored to ensure that the level of service along these roadways does not fall below the adopted level of service. Should a roadway fall to a deficient level of service, a deficiency plan would be required to identify mitigation measures including cost and a schedule of the recommended mitigation measures.

Bicycle and Pedestrian Facilities Program

As an important piece of the County transportation system, non-motorized transportation is encouraged by SANBAG. In its efforts, the agency administers a biennial Call for Projects process for bicycle and pedestrian facilities. Article 3 of TDA provides that 2 percent of LTF be set aside for the implementation of bicycle and pedestrian facilities.

In August 1999, the SANBAG Board approved a policy that 20 percent of TDA Article 3 funds would be made available for projects that improve access to bus stops for pedestrians and persons with disabilities. The remaining 80 percent would be available for pedestrian and bicycle facilities. Upon approval of a project list by the SANBAG Board, Article 3 funds will be allocated to the project sponsor agency. Allocated funds remain available for two full fiscal years after the year of Board approval.

Proposed projects are reviewed by an evaluation committee. The evaluation committee, using the criteria contained in the Call for Projects, assigns each proposed project a score. The evaluation committee comprises two SANBAG staff, engineering, public works or parks and recreation representatives from two cities/towns and the County, and one member from an adjacent county transportation commission. The evaluation committee presents its recommendation to the SANBAG Plans and Programs Committee who in turn forwards its recommendation to the full SANBAG Board.

The allocations are based on 2 percent of TDA fund apportionments, as allowed by law, plus carryover funds from prior years. According to the SANBAG budget, in April 2007, the SANBAG Board approved a list of projects from the biennial Call for Projects totaling \$870,390 for transit access improvements and \$3,480,617 for bicycle and pedestrian projects. The next Call for Projects took place in the fall 2008.

#### *Transit Planning including the Short Range Transit Planning Process*

SANBAG is responsible for the coordination of transit among all of the operators in the county to ensure an efficient delivery of services. In this capacity, the agency has provided a regional perspective to facilitating the provision of public transit by the six transit operators and SCRRA. As the County Transportation Commission, SANBAG requires each transit operator to prepare a multi-year operating and capital plan every other year. This Short-Range Transit Plan (SRTP), or Operations Analysis, provides basic information about the transit services provided by each operator, including performance, needs, deficiencies and a proposed plan for operations and capital investments covering the next five years. The SRTP, which replaces the prior Transit Operating and Capital Plan, provides the basis for services and capital projects that are programmed in TIP documents that are approved by SANBAG, SCAG and federal grant awarding agencies like the Federal Transit Administration (FTA) for capital grants.

During the audit period, SANBAG commissioned an operations analysis for each of the transit operators, except Needles. Each SRTP provided recommendations for alternative service provision and benchmark performance measures to gauge productivity. Many of the recommendations have been implemented by the respective operators. However, LTF receipts and reserves have been trending lower due to the economic downturn resulting in required efforts by each transit agency to assess current service provision. This has particularly impacted larger operators such as Omnitrans which prepared its updated five-year SRTP that is not financially constrained and with a relatively ambitious farebox recovery goal of 25 percent.

Regional transit goals are developed and coordinated with the timing of completion of each transit agency's Operations Analysis/SRTPs, along with the SANBAG Long Range Transit Plan (LRTP) that is still under way. The LRTP is a high-level document that is assessing land use and population characteristics that support key bus rapid transit corridors and a transit supportive network. The service and policy recommendations contained in each of these transit plans contain funding assumptions of allocations from revenue such as new Measure I funds to transit, which include commuter rail and express buses, bus rapid transit, and specialized services. It will be important for SANBAG to continue to clearly convey its supporting role to the transit operators and to assist with providing efficient and effective service while meeting regional goals and conforming to state and federal mandates.

In regard to SCRRA's Metrolink commuter rail services in San Bernardino County, SANBAG released the Passenger Rail SRTP for Fiscal Year 2008–2012 in May 2007. The Passenger Rail SRTP reflects SANBAG's share of the Metrolink operating and capital plan for the San Bernardino, Inland Empire Orange County and Riverside lines, as well as the future Redlands Passenger Rail and Gold Line Extension projects.

SANBAG has taken a more active role in helping member agencies with budgeting and operational issues, attributable in part to additional transit staff being hired including the Transit Analyst in August 2006. Pursuant to the federal SAFETEA-LU requirements, SANBAG completed a Public Transit-Human Services Transportation Coordination Plan for San Bernardino County in January 2008, which guides the use of certain federal transit funding sources. The federal transportation law includes funding programs that provide additional resources for special projects that could meet anticipated demand. Such funding sources include the Social Service Transportation Coordination Program (FTA Section 5310) and the Job Access and Reverse Commute Program (JARC) (FTA Section 5316) which became a formula program under SAFETEA-LU. JARC might be used for transit services to transport welfare recipients and other low-income individuals to employment. The New Freedom Program (FTA Section 5317) is a formula grant program that could address transportation services and capital improvements that go beyond those required by the American with Disabilities Act (ADA).

SANBAG has also been coordinating planning efforts between corridor cities in the San Bernardino Valley, such as Redlands and San Bernardino, which involve land use analyses of Transit-Oriented Development (TOD) around proposed station locations and the densities that would be TOD supportive. As part of receipt of federal small starts funding, the FTA reviews the modeling efforts employed for these corridor projects which have resulted in modeling issues. FTA wants SANBAG to use the SCAG regional model for local service projections for these corridor cities. A model agreement is being worked out.

### Freeway/Roadway Construction

SANBAG serves as the lead agency for many construction projects, and provides funding support for projects overseen by other agencies. Major roadway projects are funded by a variety of revenue sources, including local Measure I and state and federal funds. During the audit period, several significant construction projects were completed. One of the largest freeway projects funded and completed during the audit period was State Route 210, also known as the Foothill Freeway, which covers some 28 miles between La Verne and San Bernardino. Construction of the last 8 miles of State Route 210, in Rialto and San Bernardino, was completed in mid-2007. Another significant project is the widening of Interstate 215 between Interstate 10 and State Route 210, which began in January 2007. In the fall of 2007, the Interstate 10 widening project in Redlands was completed, with the opening of a new eastbound and westbound lanes. Finishing work was completed in 2008. Major street improvements throughout the San Bernardino Valley were also completed with SANBAG assistance including major roadway rehabilitation, construction or reconstruction of arterial streets, and grade separations.

SANBAG's Program Management Consultant develops a Major Projects Quarterly Project Status Briefing document. The document is intended to communicate project information between SANBAG staff and the SANBAG Board. Projects are organized by type – mainline project, segment project, interchange project, and grade separation project – the current phase of the project, and the roadway corridor. Most highway projects include improvements along the I-10 and I-215 corridors, while grade separation projects are on local streets.

### Commuter Assistance Program

The focus of the Commuter Assistance Program is to improve mobility throughout the transportation system by encouraging commuters to make a mode-shift decision away from solo vehicle commuting. SANBAG offers a comprehensive list of programs and outreach under the umbrella of Commuter Assistance which helps foster more efficient use of the transportation system and reduces congestion and vehicle emissions.

In addition to outreach to employees through employer channels, SANBAG promotes the Commuter Assistance Program online and in print. The most prominent and versatile outreach element of the Commuter Assistance Program is <http://www.commutersmart.info>. Here, commuters can go online and find a ridematch, access bus/rail information, and locate traveler information to help them make smart travel decisions and assist SANBAG in its mobility enhancement/congestion avoidance goals. There are about 350,000 names in the rideshare database, with 75,000 of them being active registrants. The Riverside County Transportation Commission maintains the rideshare database on behalf of the following neighboring counties: Los Angeles, Orange, San Bernardino and Ventura. SANBAG provides reimbursement to RCTC for managing the service. In addition, the Commuter Exchange, a 40-foot mobile information center with interactive rideshare displays and collateral, is another mode of outreach that attends

public events, school and employer functions to increase the public's awareness of ridesharing programs available to them.

#### Motorist Assistance Program

##### Service Authority for Freeway Emergencies

SANBAG has served as the designated Service Authority for Freeway Emergencies (SAFE) for San Bernardino County since 1990. SAFE is known for the call boxes along major highways that enable stranded motorists to phone for assistance. Between 2005 and 2007, the call boxes were converted from analog to digital signal. With the expansion in the use of cellular phones, however, the trend in call box usage has declined. Table IV-1 shows the trend in usage over the last three years.

**Table IV-1**  
**SAFE Program Usage**

<b>Fiscal Year</b>	<b>Number of Calls</b>	<b>Number of Call Boxes</b>	<b>Annual Change in Calls</b>
2006	25,873	1,502	-21%
2007	20,499	1,438	-21%
2008	18,257	1,395	-11%

Source: SANBAG

##### Freeway Service Patrol

SANBAG administers the Freeway Service Patrol (FSP) in conjunction with the CHP and Caltrans. The FSP began in 2006 and provides quick motorist assistance during peak traffic conditions and in construction zones. Five tow truck contractors are used to provide 16 roving tow trucks along major freeways covering about 60 miles. The service corridors and corresponding eight beats are shown in Table IV-2.

**Table IV-2**  
**San Bernardino County Beat Summary**

<b>Beat Number</b>	<b>Description</b>	<b>Length in Miles</b>
Beat 1	I-10 Indian Hill Blvd. to Haven Avenue	8.70
Beat 2	I-10 Haven Avenue to Sierra Avenue	8.05
Beat 3	I-10 Sierra Avenue to Waterman Avenue	9.04
Beat 4	SR-60 Reservoir Street to Milliken Avenue	9.96
Beat 5	I-15 Jurupa Street to I-15 Baseline Avenue	7.72
Beat 6	I-215 Center Street to 2 <sup>nd</sup> Street	6.79
Beat 7	I-215 2 <sup>nd</sup> Street to University Parkway	4.84
Beat 8	I-10 Waterman Avenue to Orange Street	5.65
<b>Total Mileage Covered</b>		<b>60.75</b>

Source: SANBAG

The FSP operates during peak commute hours from 5:00 a.m. to 8:30 a.m. and between 3:00 p.m. and 7:00 p.m., which amounts to 7.5 hours per day. FSP is also utilized in construction zones. The number of beats has grown during the audit period. More than one-third of all FSP assists involve information and general assistance calls, followed by flat tires and mechanical failures. Table IV-3 shows the number of incidents for all corridors from January 2006 through September 30, 2008.

**Table IV-3**  
**FSP Program Assists**

Category	Number of Incidents	Percentage
Abandoned Vehicle	6,737	7.1%
Accident	5,842	6.2%
Debris Removal	4,369	4.6%
Electrical Problem	3,137	3.3%
Flat Tire	14,747	15.6%
Information/Assistance	34,312	36.3%
Locked Out	53	0.1%
Mechanical Problem	12,407	13.1%
Out of Gas	7,958	8.4%
Overheated	4,800	5.1%
Unable to Locate	44	0.0%
Vehicle Fire	81	0.1%
<b>Total</b>	<b>94,487</b>	<b>100.0%</b>

Source: SANBAG

### Measure I

As the County Transportation Authority, SANBAG administers the 20-year voter-approved countywide half-cent sales tax under the purview of Measure I. Measure I was approved by voters in November 1989 to provide revenues toward a variety of transportation improvements such as major freeway construction, commuter rail service, local street and road improvements, public transit for senior and disabled persons, and traffic management and environmental mitigation efforts. The measure is set to expire in 2010.

Measure I funds are allocated based on distinct regional formulas. For the Mountain/Desert Region, 65 percent of funds are spent on major arterial streets and roads. Another 30 percent is spent on local streets and roads, and the remaining 5 percent is spent on paratransit fare and service subsidies for seniors and the disabled. In the San Bernardino Valley, Measure I funds are allocated using a different formula. More than 80 percent of funds are allocated in a “pool” toward projects of regional significance, such as freeway improvements, major arterials, Metrolink, Omnitrans, traffic management and

environmental mitigation. The remaining funds are allocated to cities and unincorporated communities for improvements to local streets and roads.

As described earlier, the largest freeway project funded by Measure I is the construction of State Route 210 (Foothill Freeway) between La Verne and San Bernardino, completed in mid-2007. Other significant projects funded in part by Measure I is the widening of Interstate 215 between Interstate 10 and State Route 210, and Interstate 10 widening project in Redlands.

In November 2004, county voters approved a 30-year extension of Measure I through March 2040. SANBAG approved the Measure I 2010-2040 Strategic Plan in March 2009, which is the policy manual for delivering Measure I 2010-2040 programs by SANBAG and its member agencies.

According to the SANBAG financial audits, Measure I sales tax revenues have been declining due to the economic downturn. After experiencing a 12 percent increase from FY 2005 to FY 2006, revenues have shown a steady decline as shown Table IV-4.

**Table IV-4**  
**Measure I Revenues**

<b>Fiscal Year</b>	<b>Revenues</b>	<b>Annual Rate of Growth/Decline (+/-)</b>
2005	\$131,902,744	-
2006	\$148,073,689	+12%
2007	\$147,929,491	- 1%
2008	\$140,547,350	- 5%

Source: SANBAG Financial Audits FY 2006-2008

## **TDA Claimant Relationships and Oversight**

As the designated County Transportation Commission, SANBAG is responsible for the administration of the TDA program. This functional area addresses SANBAG's interaction with the transit operators in San Bernardino County and its administration of the provisions of TDA. The sub-functions described include costs to administer the program, technical and managerial assistance to operators, TDA claims processing and the unmet transit needs process.

### **SANBAG Administration and Planning**

The uses of TDA revenues apportioned to San Bernardino County flow through a priority process prescribed in state law. Prior to apportionment of funds to the Bicycle and Pedestrian Facilities Program and the transit operators, SANBAG is able to claim TDA



revenues for administration of the fund and for transportation planning and programming purposes. SANBAG apportions 3 percent of LTF for Planning and Programming as allowed by statute. The limit does not apply to fund administration, but SANBAG has been responsible in the amount it claims. In addition, SANBAG allocates revenues to SCAG for planning purposes as a member of the regional agency. During the audit years of 2006 through 2008, SANBAG apportioned the following LTF amounts (Table IV-5):

**Table IV-5**  
**Adopted LTF Apportionments for**  
**SANBAG Administration,**  
**Planning and Programming**

<b>Fiscal Year</b>	<b>Total LTF Available <sup>(1)</sup></b>	<b>SANBAG Administration of TDA</b>	<b>SANBAG Planning &amp; Programming</b>	<b>Total SANBAG Allocations</b>
2006	\$69,300,000	\$390,000	\$2,079,000	\$2,469,000
2007	\$79,875,000	\$300,000	\$2,396,250	\$2,696,250
2008	\$81,590,000	\$350,000	\$2,447,700	\$2,797,700

(1) Total annual LTF receipts estimated per SANBAG/County Auditor. Excludes STAF.

Source: SANBAG Board adopted apportionments and fund estimate.

#### Technical and Managerial Assistance to Operators

With the addition of a Transit Analyst in August 2006, SANBAG has had the staff capability to be more hands-on and engaged with the transit operators. Direct interface with the operators has been enhanced through communications, attendance at unmet transit needs hearings and PASTACC meetings, as well as review of operating performance through each operator's respective Short Range Transit Plan. SANBAG also has the staff capability to be a direct partner in the planning and development of the San Bernardino Express (SBX) project being implemented by Omnitrans. By having additional transit staff focus on transit operations, the Director of Transit and Rail Programs is able to focus more on policy and to respond faster to funding and high-level decision-making for both commuter rail and public transit.

As a requirement of TDA, SANBAG is responsible for identifying, analyzing and recommending potential productivity improvements in collaboration with the transit systems under its jurisdiction. The SANBAG TDA Application Manual discusses the agency's Productivity Improvement Program (PIP) as a means to fulfill this obligation. Productivity improvement recommendations for transit operators are divided into three categories: performance measures, performance audit recommendations, and specific operator or claimant initiated efforts to improve productivity. The commissioning of short-range transit plans in lieu of the transit operating and capital plans also provides technical recommendations to the operators.

Based on discussions with SANBAG transit staff and review of related documentation provided by both SANBAG and the transit operators, it appears SANBAG has struggled with maintaining consistency to fully implement the Productivity Improvement Plan. The implementation of TransTrack was a significant endeavor to gain further compliance with reporting consistent performance measures; however several transit operators continue to have data entry issues with the various modules, whether it be data issues provided by the contract service providers, complexity with the software, or time constraints.

SANBAG, in cooperation with the transit operators, went live with TransTrack during the audit period. TransTrack is a computerized data collection and performance management tool geared toward transit operators. It is intended to standardize the reporting of critical operations data and provide a communications medium between SANBAG, the operators and their governing boards. After a few years of becoming familiar with this tool, several of the transit operators continue to experience challenges utilizing the capabilities of TransTrack. For example, TransTrack data does not match State Controller data or performance indicator data is not entered into TransTrack. Large fluctuations in operations data from year to year have also been found, oftentimes due to entry errors or incomplete quarterly and annual information. In addition, some smaller operators do not report their transit performance to their respective governing boards on a regular basis. Given the difficulties that the operators have been having with TransTrack, SANBAG has been reluctant to utilize TransTrack data in its reports to the Board. As a result, there are ongoing efforts by both SANBAG and the operators to improve the data consistency and utilization of this system to its potential. This may require additional training or assistance provided by SANBAG.

Regarding other aspects of the PIP, most operators have made attempts to implement prior performance audit recommendations. However, the status of their actions and outcomes to implement the recommendations do not appear to be conveyed to SANBAG on a regular basis. The annual TDA claims provide a venue from which the operators could annually report to SANBAG the status of the performance audit recommendations. SANBAG could then monitor the operators' progress to fully comply with the recommendations.

From a review of sample TDA claims forms completed by the transit claimants during the audit period, only one operator (City of Barstow) provided documentation on specific initiated efforts to improve productivity. This is the third component of the PIP. Documentation on specific initiated efforts should be provided by each operator to SANBAG as part of the TDA claims. Other required data to accompany the claims such as copies of the CHP pull notice compliance should also be provided by the operators. As a few operators had past unsatisfactory CHP ratings for a variety of violations, SANBAG should be aware of these findings and follow up with the operator to maintain compliance. Violations occurred in the audit period and included poor vehicle maintenance (Needles) and Driver Pull Notice Program violations (MARTA, MBTA and Omnitrans).

SANBAG also participates in the statewide TDA working group and sends a representative when possible. Participation in the working group provides benefit for all San Bernardino TDA claimants.

#### *TDA Claim Processing*

The Senior Transit Analyst oversees and administers the TDA claims process in addition to responsibilities related to commuter rail. According to the annual SANBAG basic financial statements, SANBAG was responsible for managing and disbursing \$64.0 million in Local Transportation Fund revenues in FY 2006, \$56.4 million in FY 2007, and \$81.9 million in FY 2008. In addition, the agency disbursed \$1.8 million in State Transit Assistance funds in FY 2006, \$3.9 million in FY 2007, and \$5.4 million in FY 2008. As described earlier, prior to apportionment to the transit operators and other claimants, LTF revenues are claimed by SANBAG for administration and planning purposes. Claims are also made for bicycle and pedestrian projects under the appropriate claim process.

SANBAG prepares and distributes the TDA claims packets electronically along with funding information needed to prepare TDA claims. Included in the packet is a checklist of items to be filed. The claims checklist used during the audit period contained a listing of 13 items which allows for each claimant to submit and justify their need for TDA funds. Beginning with the FY 2008-09 claims cycle, SANBAG revised the claims form to minimize the number of repeat entries. The claim form now includes shaded areas that contain formulas for importing data from other entries. The checklist of items to file also grew from 13 to 14 to include submittal of a listing on ongoing capital projects.

The claims are prepared by each operator, adopted by the operator's governing board or council, and must include a signoff on the implementation of a number of TDA requirements. These requirements are contained in the "Standards Assurances" form and include compliance with revenue ratios, attachment of specific documentation, and submittal of compliance audits and reports. Each submitting claimant certifies that all conformance requirements are satisfied to receive both LTF and STA funds. SANBAG should ensure that all required forms are submitted with the claim such as the CHP pull notice certificates and productivity improvement program documentation. Once the claims are processed and funds are allocated by SANBAG, operators can amend claims during the fiscal year as actual transit service is delivered.

State Transit Assistance Funds are claimed using the same form and comply with the procedures and formulas established in the TDA statute. SANBAG is required to make annual findings prior to allocation of STA funds to the transit operators. These findings are part of the standard assurances checklist and are integrated with the claims for LTF revenues. Measure I elderly and disabled claims are a third aspect of the claims process.

The SANBAG TDA Application Manual is planned to be updated pending staff resources. The updated document will be made available online and contain the updated claim forms.

#### Unmet Transit Needs and PASTACC

Unmet transit needs hearings are required by TDA where claims can be made for streets and roads. This occurs only for the mountain and desert region of San Bernardino County since TDA is dedicated to transit in the San Bernardino Valley area. SANBAG conducts the annual unmet needs process in consultation with the Public and Specialized Transportation Advisory and Coordinating County (PASTACC), which serves as the statutorily required Social Services Transportation Advisory Council (SSTAC). Members of the PASTACC participate in the review of the comments.

Definitions of “unmet transit needs” and “reasonable to meet” are adopted by the County Transportation Commission Board of Directors during the unmet needs process. Unmet transit needs are defined as “any deficiency in the provision of public transit service, specialized transit service or private for-profit and non-profit transportation.” Transit needs that are “reasonable to meet” are based on the following criteria: (1) community acceptance; (2) timing; (3) equity; (4) cost effectiveness; and (5) operational feasibility.

Unmet transit needs hearings are coordinated by SANBAG transit staff and are generally held during the month of September. Given the vast geography of the mountain and desert region, public hearings are held in three locations in cooperation with the local transit agency: upper desert (Victorville), low desert (Joshua Tree), and mountain region (Big Bear Lake/Crestline). The hearings are duly noticed in local print publications, such as the San Bernardino County Sun, Hi-Desert Star, Desert Dispatch, and the Crestline Courier News. Flyers announcing the public hearings are posted on transit vehicles serving the region and notices are mailed to social service agencies, transit advocates and interested citizens. Unmet transit needs findings were reviewed for the audit period, some resulting in new trial services such as a non-emergency medical demand responsive service from the city of Needles to Bullhead City, Arizona.

Several PASTACC stakeholders were interviewed for this audit to gain an outside perspective on the effectiveness of this SANBAG-sponsored transit advisory group. Those interviewed have participated in PASTACC for at least a few years and attend the advisory group meetings regularly. Attendance at the meetings generally reaches about 20 members. Each stakeholder provided positive feedback regarding their opinions of the advisory group and staff's professionalism and knowledge about the issues. Each expressed the fact that staff encourages input and discussion and is a valuable objective resource to providing information of interest such as funding opportunities. Funding decisions and keeping informed about the flow of transit revenues are some of the primary draws of the participants to the group.

It was mentioned that much of the meeting discussion tends to focus on the specialized transit issues and needs in the Mountain/Desert Region and less on similar needs in the San Bernardino Valley such as funding challenges which affect all locales. In addition, as part of the questions asked, the stakeholders mentioned there is no orientation process for new members or those that seek greater familiarity with the purpose and functions of the advisory group. Some have reached out to SANBAG staff on their own to have their questions answered and staff has been helpful. Given the size of the PASTACC membership and varying interests of a diverse membership, a brief standard orientation or introductory guide about the advisory group and its role and responsibilities may be of assistance to the participants as they circulate through the advisory group.

## **Public Information and External Affairs**

SANBAG has developed a comprehensive outreach effort to elicit support for its mission and to educate the public of its role in the delivery and maintenance of transportation infrastructure. The outreach program is divided into two roles: legislative affairs and media relations.

The legislative affairs efforts involve the utilization of a lobbyist at the federal level to ensure that adequate funding is maintained for local transportation projects. As part of its mission in providing transportation projects services to San Bernardino County, SANBAG plays an active role in Washington, D.C., and Sacramento in advocating transportation-friendly policies and securing funding for local and regional projects. The agency provides assistance and advocacy on behalf of the congressional delegation when requested. SANBAG also works closely with RCTC to establish a unified front in advocating for transportation legislation on behalf of the entire Inland Empire. SANBAG also takes a regional perspective in its advocacy with SCAG.

The SANBAG governing board approves a biennial legislative program covering the United States Congress and the California State Legislature, which provides staff direction on the policies and programs to be advocated for or against in Washington, D.C., and in Sacramento.

SANBAG's federal legislative program seeks to do the following:

- Protect and enhance current funding levels for transportation programs.
- Protect and enhance flexibility in use of transportation revenue.
- Reduce or eliminate costly and duplicative administrative and regulatory requirements.

Likewise, SANBAG's state legislative program sets forth the following goals:

- Protect and enhance current funding levels for transportation programs.

- Support increases in transportation revenues and funding sources that enhance the ability of SANBAG to implement their transportation plans.
- Maximize flexibility in the use of existing transportation revenues.
- Streamline administrative and regulatory processes.

SANBAG also participates in Mobility 21 to ensure its interests are heard. The SANBAG Executive Director is a Board Member of Mobility 21 which is a coalition that brings together public, business and community stakeholders to pursue regional solutions to the transportation challenges facing Los Angeles, Orange, Riverside, San Bernardino and Ventura Counties. A nonpartisan alliance, Mobility 21 delivers a unified voice for the region's transportation priorities and seeks to improve mobility in the region.

SANBAG's media relations efforts are conveyed through the agency's Public Information Officer, its website, publications and public presentations. SANBAG produces a number of publications as part of its public information and outreach efforts. The two-page "Street Smart" newsletter is the monthly meeting summary of the SANBAG Board of Directors that features key agenda highlights and a calendar of upcoming Board and committee meetings. Another publication is the "Inland Empire Quarterly Economic Report," which contains a snapshot of economic conditions and forecasts in Riverside and San Bernardino counties. Other publications are more project-specific, such as "Cruising through Construction," containing information on the progress of the Interstate 215 Improvement Project. "Construction Ahead" is the newsletter for the Interstate 10 Improvement Project, "In the Zone" is the newsletter for the State Street/University Parkway Grade Separation Project, and "On the Move" is the newsletter for the last 8 miles of the State Route 210 Extension Project. SANBAG has produced a multi-fold color brochure on Transportation Measure I, the Freeway Service Patrol, and the Interstate 215 Widening Project and about the role SANBAG plays in improving mobility in San Bernardino County.

SANBAG's website (<http://www.sanbag.ca.gov/>) is divided into seven main sections: About SANBAG, Projects, Commuter Info, Planning, Funding, News and Publications, and Resources. The left-hand margin entitled "Down the Road" contains a listing of upcoming Board and committee meetings as well as a link to Measure I. The right-hand margin entitled "Quick Picks" contains links to bid and career opportunities, major road construction projects, and recent publications. On the Commuter Info page, there is a link to the CommuteSmart.info trip planner, which includes traffic conditions data, a transit planner and a rideshare matching service for Southern California commuters. The Publications page has links to current newsletters, reports and studies, and informational brochures in Adobe Acrobat PDF format. There is also a form at the bottom of the page for ordering hard copies of SANBAG publications.

## **Grant Application and Management**

SANBAG serves as the clearinghouse for federal grant applications that are reviewed to determine if there is any duplication of effort among agencies and to ensure that there is no conflict with local plans and policies. SANBAG's role for San Bernardino County is to review and be an integral part in state and federal funding assistance that promotes inter-jurisdictional coordination.

The agency assists the transit operators with obtaining both state and federal grants by ensuring the programming of resources and projects in the appropriate state and federal transportation implementation plans. As relatively new transportation funding sources such as State Proposition 1B are approved by voters, SANBAG provides the conduit and information for grant availability. State funding through the California Transit Security Grant Program for security cameras on board transit vehicles and at transit facilities is an example of the new type of funding that has become available. Federal grants have also played an important role in funding continued operations and capital replacement of the transit operators. In the revised TDA claims, SANBAG will be requiring the operators to submit a listing of capital projects approved in the prior year's budget but not yet completed. This is in addition to the listing of capital projects requested in the current budget year.

## Section V

### Findings

The following material summarizes the major findings obtained from the Triennial Audit covering fiscal years 2006 through 2008. A set of audit recommendations is then provided.

1. SANBAG conducts its management of the TDA program in a competent, professional manner while operating in a complex intergovernmental environment.
2. SANBAG has satisfactorily complied with most State legislative mandates for Regional Transportation Planning Agencies. A few compliance areas were partially met, including the mandate for SANBAG to analyze and recommend potential productivity improvements for the transit operators, as well as to ensure the fiscal and compliance audits were submitted to the State according to the statutory timelines.
3. SANBAG has responded to and implemented one of the two prior performance audit recommendations. The recommendation not yet implemented is to update its TDA application manual.
4. SANBAG has seen notable changes and challenges in staffing during the audit period, particularly at the senior management and executive leadership level. Staff changes included the recruitment of two Executive Directors in the past three years, a Director of Management Services and Mountain/Desert Subregional Policies and a new Director of Freeway Construction, and recruitment of four Chief Financial Officers.
5. In light of the extension of Measure I for another 30 years and the limited capacity of Caltrans and partner agencies to deliver projects, SANBAG has been organizing itself through creation of new positions and new internal controls toward serving as an implementation agency. A new strategic plan for Measure I has also been developed to guide future transportation infrastructure.
6. The agency was recognized in May 2007 as the International Employer of the Year by Women's Transportation Seminar (WTS) at an awards dinner in San Diego.
7. SANBAG is updating its financial software, having outgrown its current system, and recently installed and tested a new system. Tyler Technologies, Inc. is supplying SANBAG with the EDEN financial management software, including core financial and human resource applications. In conjunction with the financial



system overhaul, SANBAG is documenting current desk procedures and policies as a means to communicate the standard operating procedures in light of management turnover.

8. During the audit period, SANBAG commissioned an operations analysis for each of the transit operators, except Needles. Each Short Range Transit Plan provided recommendations for alternative service provision and benchmark performance measures to gauge productivity. Many of the recommendations have been implemented by the respective operators. However, LTF receipts and reserves have been trending lower due to the economic downturn resulting in required efforts by each transit agency to assess current service provision.
9. The apportioned amount of LTF funds used for SANBAG planning purposes has increased over the last three years. The increase was generally due to continued work in meeting TDA administrative requirements and planning for existing and new projects. SANBAG's statutory limit of LTF expenditures for planning and programming purposes is 3 percent of annual Local Transportation Fund revenues. SANBAG has been responsible in the amount it claims.
10. With the addition of a Transit Analyst in August 2006, SANBAG has had the staff capability to be more hands-on and engaged with the transit operators. Direct interface with the operators has been enhanced through communications and attendance at unmet transit needs hearings and PASTACC meetings, as well as review of operating performance through each operator's respective Short Range Transit Plan. By having additional transit staff focus on transit operations, the Director of Transit and Rail Programs is able to focus more on policy and to respond faster to funding and high-level decision-making for both commuter rail and public transit.
11. SANBAG, in cooperation with the transit operators, went live with TransTrack during the audit period. TransTrack is a computerized data collection and performance management tool geared toward transit operators. It is intended to standardize the reporting of critical operations data and provide a communications medium between SANBAG, the operators and their governing boards. After a few years of becoming familiar with this tool, several of the transit operators continue to experience challenges utilizing the capabilities of TransTrack. As a result, there are ongoing efforts by both SANBAG and the operators to improve the data consistency and utilization of this system to its potential.

## Recommendations

1. Enhance the Transit Productivity Improvement Program.  
(High Priority)

The transit PIP, which comprises three components, could be strengthened in several areas. One is for SANBAG to ensure that the transit operators submit their specific initiated efforts to improve productivity along with their TDA claims, as this is a standard assurance item. A second area is for development of a brief form or table for the operators to describe their status and actions to implement the performance audit recommendations. The form, which could be attached as part of the annual TDA claim, would include a request to list each recommendation, activities conducted to implement the recommendation, and the status of whether the recommendation was fully implemented or not, and follow-up actions to be taken. The third area is ongoing work with the operators to improve their usage of TransTrack, whether through additional instruction or training, identifying and communicating data errors, or validating the method to enter the data consistently.

2. Require transit operators to consistently submit CHP inspection certificates with TDA claims.  
(High Priority)

The standard assurances form completed by the TDA claimants includes submittal of the annual CHP certificate verifying participation in the pull notice program. Submittal of these forms by the operators to SANBAG is a compliance requirement and should be provided. As a few operators had past unsatisfactory CHP ratings for a variety of violations, SANBAG should be aware of these findings and follow up with the operator to maintain compliance.

3. Maintain transit staff development for TDA administration.  
(High Priority)

Given the retirement of the Director of Transit and Rail Programs, SANBAG should ensure that adequate training on TDA administration and compliance continues through the ranks. Desk procedures should be in place that enable senior staff and management to provide training to analysts and others regarding the responsibilities and compliance with TDA to maintain a high level of competency within the agency. This may include cross-sharing of responsibilities so that more than one person is capable of handling the tasks.

4. Update the SANBAG TDA application manual.  
(High Priority)

As a carryover recommendation from the prior performance audit, the agency's guidebook should be updated to reflect changes to the administration of TDA.

These include the updated TDA statute book (February 2009), the updated TDA performance audit guidelines (September 2008), utilization of TransTrack as a performance monitoring tool, and utilization of the newly designed TDA claim form.

5. Develop orientation packet for new and existing PASTACC members.  
(Medium Priority)

Given the diversity, interest and membership size of this advisory body, a brief standard orientation packet could assist new and existing members to become more familiar with the purpose, role and responsibilities of the group. Answers to common questions posed by members could be included in addition to other general information such as transit funding sources, list of acronyms, unmet needs process and other pertinent data. The packet may also serve as a reference document for the group to consult when exchanging ideas and discussion.

6. Consider development of a broader transit policy committee in light of multimodal planning in the county and region.  
(Medium Priority)

SANBAG is engaged in several transit connectivity plans as well as a Long Range Transit Plan that will have broad implications on future travel and commuter behavior. These plans will likely have connectivity with rail and other transit and non-motorized systems as part of the effort to improve mobility while complying with state legislation including SB 375. Specialized transit for elderly and disabled passengers is another program that has been studied for coordination. With Bus Rapid Transit and other transit corridor endeavors being planned, a SANBAG policy committee that focuses on multimodalism and transit connectivity may be warranted in the near future. This concept might be linked to SANBAG's current standing commuter rail committee which provides a major travel mode in the county.

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

## *Minute Action*

AGENDA ITEM: 24

**Date:** July 1, 2009

**Subject:** Fiscal Year 2009/2010 Transportation Development Act (TDA) Unmet Transit Needs Public Hearings

**Recommendation:\***

1. Adopt Definitions of "Unmet Transit Needs" and "Reasonable to Meet" as identified in Attachment A.
2. Set Times, Dates and Locations for TDA Unmet Transit Needs Public Hearings.

**Background:** Each year the San Bernardino County Transportation Commission is required by Public Utilities Code Sections 99238.5 and 99401.5 to hold public hearings for obtaining testimony regarding unmet transit needs that can be reasonably met and must adopt findings prior to making an allocation of Local Transportation Funds (LTF) for street purposes. Per the Board action of 1993, a public hearing will not be held in the Valley as all LTF revenues are committed to transit. The information obtained at these hearings will be used in the planning and budget development of the affected transit operators for the subsequent fiscal year, as recommend in the transit operators' performance audit.

In January 2003, the Board approved the definitions of "unmet transit needs" and "reasonable to meet". An amendment to Section C – Equity, under the definition of "reasonable to meet", was approved by the board in September 2004. These definitions were the result of an extensive effort to update them with input from

*Approved  
Board of Directors*

*Date:* \_\_\_\_\_

*Moved:*

*Second:*

*In Favor:*

*Opposed:*

*Abstained:*

*Witnessed:* \_\_\_\_\_

organizations representing the transit dependent and the affected transit operators during 2002. The California Department of Transportation has suggested that the definitions be reviewed and adopted on a periodic basis. The definitions were again approved by the Board on July 2008. Attachment A contains the current definitions and no change is being proposed at this time. These definitions will be used to respond to the testimony received.

Three public hearings are proposed for this year with the locations being the Morongo Basin, San Bernardino Mountains and Victor Valley. The Boards of the Morongo Basin Transit Authority (MBTA), the Mountain Area Regional Transit Authority (MARTA) and the Victor Valley Transit Authority (VVTa) will serve as the hearing boards at their respective locations.

The schedules for the proposed hearings are as follows:

**Lower Desert Region**  
September 17, 2009 at 5:00 pm  
Helen Grey Center  
6601 White Feather Road  
Joshua Tree, CA

**Upper Desert Region**  
September 21, 2009 at 9:30 am  
Victorville City Hall Council Chambers  
14343 Civic Drive  
Victorville, CA

**Mountain Region**  
September 21, 2009 at 1:00 pm  
Big Bear Lake City Hall  
39707 Big Bear Boulevard  
Big Bear Lake, CA

**Financial Impact:** This item is consistent with the adopted FY 2009/2010 budget. Funding for the public hearings is provided under Task No. 50210000, the funding source is LTF Administration.

**Reviewed By:** This item was reviewed by the Mountain/Desert Committee on June 19, 2009 and unanimously recommended for approval.

**Responsible Staff:** Mike Bair, Interim Director of Transit and Rail  
Beth Kranda, Transit Analyst

**Attachment A**

**Definitions of “Unmet Transit Needs” and  
“Reasonable to Meet” adopted by the San Bernardino  
County Transportation Commission Board of Directors on June 19, 2009**

**Unmet Transit Needs:** Unmet transit needs are any deficiency in the provision of public transit services, specialized transit service or private for-profit and non-profit transportation.

**Reasonable to Meet:** Reasonable to meet is a determination to be made based upon the following guidelines, performance and financial standards:

**A. Community acceptance** – The proposed service has community acceptance and support as determined by the Unmet Transit Needs public hearing record, the inclusion of adopted programs and plans, the adoption of governing board positions and other existing information.

**B. Timing**

1. The proposed service shall be in response to an existing rather than future need
2. The proposed service shall be implemented consistent with the timing for federal and state grant approval if such a grant is the most appropriate primary method of funding.

**C. Equity** – the proposed service shall:

1. Not unreasonably discriminate against or in favor of any particular segment of the community.
2. Not result in reduced service levels for other parts of the transit system that have equal or higher priority.
3. Require a subsidy per passenger generally equivalent to a 120% of similar services being operated within the first two full fiscal years of operation unless overriding reasons so justify.

**D. Cost effectiveness** – the proposed service shall:

1. Not duplicate other existing transportation services or resources.

2. Consider opportunities for coordinating amount adjoining public entities or with private transportation providers and/or funding agencies in order to maximize existing resources (including financial) as well as legal or customary responsibilities of other entities such as social service agencies, religious organizations and schools.

3. Not adversely affect the operator's ability to meet the required ratio of fare revenue to operating cost after two full fiscal years of operations.

4. Meet a productivity level of 80% of the average number of passengers per hour for similar services being operated within the first two full fiscal years of operation unless overriding reasons so justify.

**E. Operational feasibility** – The proposed service must be safe to operate, including the operation of vehicles on adequately maintained roadways.